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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

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Title 3—The President

Memorandum of May 19, 1977

Import Relief Determination Under Section 202(b) of the Trade Act of 1974: Television Receivers

[Decision Memorandum on Television Receivers]

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, May 19, 1977.

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (P.L. 93-618), I have determined the actions I will take with respect to the report of the United States International Trade Commission (USITC) dated March 22, 1977, concerning television receivers, color and monochrome, assembled or not assembled, finished or not finished, and subassemblies thereof. In that report the Commission determined that color television receivers, assembled or not assembled, finished or not finished, provided for in item 685.20 of the TSUS are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. Three Commissioners found injury in both the color and monochrome television industries.

Pursuant to Section 330(d) of the Tariff Act of 1930, as amended, the President may accept, in the case of an evenly divided USITC vote on an injury determination, the determination of either set of Commissioners on the question of injury. I have decided to accept the determination of those three Commissioners who voted that the domestic monochrome television industry has not been seriously injured or threatened with serious injury by increased imports. Import relief is therefore not authorized for this industry under section 203 of the Trade Act of 1974. I have, however, decided to accept the determination of those three Commissioners who voted that the domestic industry producing subassemblies of color television receivers has been seriously injured by increased imports.

Pursuant to section 202(b)(1) of the Trade Act, I have determined to provide import relief to the television industry producing color television receivers, assembled or not assembled, finished or not finished and subassemblies thereof provided for in item 685.20 of the TSUS.

I am, therefore, directing you to negotiate and conclude an orderly marketing agreement with the Government of Japan, the major supplying country, to resolve the immediate problems of our domestic color television industry for a three-year period which will provide the domestic industry time to remedy the injury found to exist.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-14799 Filed 5-20-77;10:24 am]

rules and regulations

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

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

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Regulations for the 1969 and Succeeding Crop Years; Extension of Final Dates for Filing Applications

AGENCY: Federal Crop Insurance Corporation.

ACTION: Extension of sales closing dates.

SUMMARY: This is an extension of the final dates for the filing of applications for crop insurance for the 1977 crop year on barley, combined crop, flax, peas, oats, wheat, and sugar beets in all those counties remaining open for the filing of such applications which have a closing date from March 31 to April 15. Such extension shall be until the close of business on April 22, 1977.

EFFECTIVE DATE: April 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3325).

SUPPLEMENTARY INFORMATION: In view of changed crop conditions, a number of counties which had been closed for certain commodities have been reopened. Extension of application closing dates in all counties will ease administrative burdens on both the farmer and the Corporation. Increased participation in the program in counties which had not previously been closed will strengthen the risk structure of the Corporation. Accordingly, as previously announced, the Corporation has determined that it would be desirable to extend the time for filing applications for crop insurance on such commodities, in accordance with the provision for such extensions found in 7 CFR § 401.103. Since these extensions are to the benefit of producers, and since producers need to be informed of these extensions immediately, it is found and determined that compliance with the notice of proposed rule making procedure would be impracticable and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

Accordingly, 7 CFR § 401.103 is amended by adding at the end of paragraph (b) thereof the following sentence:

§ 401.103 Application for Insurance.

* * * * *

(b) * * * The time for filing applications for crop insurance for the 1977 crop on barley, combined crop, flax, peas, oats, wheat, and sugar beets in all counties and states remaining open and having a March 31 to April 15 closing date, is hereby extended until the close of business on April 22, 1977. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

* * * * *

(Sec. 506, 516; 52 Stat. 73 as amended, 77 as amended (7 U.S.C. 1506, 1516).)

* * * * *

Dated: April 22, 1977.

W. OTTO JOHNSON,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.77-14503 Filed 5-20-77;8:45 am]

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

[Valencia Orange Reg. 555, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 13–19, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period May 13–19, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a large quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.855 Valencia Orange Regulation 555 (42 FR 24061) are hereby amended to read as follows:

§ 908.855 Valencia Orange Regulation 555.

* * * * *

(b) * * * (1) * * *

(i) District 1: Unlimited.

(ii) District 2: Unlimited.

* * * * *

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

Dated: May 18, 1977.

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

[FR Doc.77-14553 Filed 5-20-77;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 702—RESERVES

Regular Reserves

Correction

In FR Doc. 77–13688, appearing at page 24252 in the FEDERAL REGISTER of

Friday, May 13, 1977, in the middle column, in the first sentence of the "Summary", the word "rule" should be changed to read "rules".

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 306—BUSINESS DEVELOPMENT PROGRAM

Refinancing Assistance

AGENCY: Economic Development Administration, Commerce.

ACTION: Final rule.

SUMMARY: These regulations implement the refinancing authority contained in section 202(a)(3)(D) of the Public Works and Economic Development Act of 1965, as amended by Pub. L. 94-487. These regulations establish the policies and procedures through which qualified applicants may obtain refinancing assistance.

DATES: Effective date: May 23, 1977. Comments by: June 22, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Glenn S. Waldron, Director, Office of Business Development, U.S. Department of Commerce, Room 7866, Washington, D.C. 20230, Telephone 202-377-5236.

SUPPLEMENTARY INFORMATION: 13 CFR 306.1(a) is amended by the addition of language which describes the existence and intended use of the refinancing authority. The refinancing authority is conceived of as an operative instruction which provides a new direction in the use of existing business development tools. As a result, all the forms of business development assistance, with the exception of lease guarantees, are available for use with the refinancing authority. The refinancing authority may only be used in conjunction with one of the appropriate forms of business development assistance.

13 CFR 306.3 is amended by adding a new subsection (h) which contains the statutory and administrative requirements and limitations on the use of the refinancing authority. Subsection (h) incorporates the statutory qualifications surrounding refinancing assistance. The refinancing authority can only be used for debts which create a legally obtained lien against an applicant's property. Also, before the refinancing authority can be used, the Assistant Secretary must determine that such action is necessary to save or create jobs in a designated area.

Paragraph (1) of subsection (h) describes the types of property with which the refinancing authority may be used.

Paragraph (2) incorporates by reference the limitation on the use of the refinancing authority which is contained at § 306.1(a).

Paragraph (3) describes EDA's basic concept for the use of the refinancing authority. It will be used primarily in situations in which it will produce a clearly visible economic impact on threatened enterprises and jobs. The refinancing authority is not intended to substitute less expensive Federal financing for existing debt because it would be more convenient to the applicant. A true need for refinancing must exist.

Paragraph (4) sets forth EDA's policy with regard to the use of the refinancing authority for "strong" applicants who will be expanding profitable businesses. Frequently, it is to the advantage of EDA to consolidate all liens in one package rather than have a more confused collateral position. Refinancing in these situations is primarily at the behest of, and for the convenience of, EDA.

Paragraph (5) establishes EDA's policy with regard to the use of the refinancing authority in situations involving existing long term debt. It is EDA's policy that existing lenders of long term money remain with the companies that they are financing, and that pressures to have Federal money "take out" substantial portions of such debt structure be discouraged. However, where simplification of debt structure is necessary to enable a company to continue in operation or to expand facilities, use of the refinancing authority is appropriate. The twenty-five percent limitation is a guideline to indicate firmly to lending institutions that they must work with EDA on refinancing projects and not expect a eral government "take out".

Paragraph (6) announces EDA's policy of not using its limited financial assistance resources to refinance loans which have already utilized Federal appropriations.

Because this rule relates to the EDA grant and loan program, it is exempted from the procedures described in § 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding these regulations to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 306 is amended as follows:

1. By revising § 306.1(a) to read as follows:

§ 306.1 Purpose.

(a) The purpose of this subpart is to set forth policies and procedures through which qualified applicants may obtain financial assistance under section 202 of the Act. The following types of financial assistance are available to business development projects for the financing and, with the exception of assistance described in paragraph (a)(5) of this section, the refinancing of debts which create legally obtained liens against property:

* * * * *

2. By revising § 306.3 by adding a new paragraph (h) to read as follows:

§ 306.3 Types of financial assistance.

* * * * *

(h) Provide for the refinancing of debts which create legally obtained liens against the applicant's property if the Assistant Secretary has made one of the following determinations: such action is necessary to save employment in a designated area; such action is necessary to avoid a significant rise in unemployment in a designated area; or such action is necessary to create new or increased employment in a designated area.

(1) Those debts which can be refinanced may be secured by legally obtained liens on either real, personal or intangible property of the applicant.

(2) The refinancing authority may only be used in conjunction with forms of business development assistance which are appropriate and allowable under § 306.1(a).

(3) EDA will entertain proposals for refinancing primarily as such proposals pertain to workouts involving high interest costs on short term notes and accelerated loans that are affecting the financial stability of a company to a greater degree than it could possibly sustain, thereby not only jeopardizing existing jobs but the existence of the applicant itself.

(4) In the context of viable applicants intending to expand and create new jobs, EDA will consider some refinancing as part of a larger project in order to simplify lien positions or debt structure.

(5) EDA will not ordinarily consider substituting its exposure, either directly or on a guarantee basis, on existing long-term debt unless such substitution is a minor part of a more comprehensive project. Generally, the amount of such substitution must be less than twenty-five (25) percent of the total project cost. The substitution of lenders must be necessary to either simplify debt structure or free up collateral for the non-refinancing portion of the EDA assistance.

(6) The refinancing authority will not be used to refinance SBA or other (non-EDA) Federal direct or guaranteed loans.

(Pub. L. 94-487, 90 Stat. 2331 (42 U.S.C. 3121 et seq.); Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, 40 FR 56702.)

ROBERT T. HALL,
Assistant Secretary for Economic Development.

MAY 9, 1977.

[FR Doc.77-14501 Filed 5-20-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-89, Amdt. 39-2908]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an inspection and alteration of fasteners located in the wheel wells of Canadair CL-215 type airplanes. These airplanes operate on the water and the absence or looseness of the fasteners will permit water to seep into the wheel wells.

DATES: Effective date: May 26, 1977. Compliance is required prior to U.S. airworthiness certification since there are no CL-215 airplanes registered within the U.S.

ADDRESSES: Canadair Circular 136-CL-215 may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J. F. K. International Airport, Jamaica, New York 11430, Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of structural damage and missing or loose fasteners of the attachment fittings of the main landing gear. These fasteners are in the wheel well and will permit water to enter the hull of the airplane when it is operating on water. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued to require an inspection and alteration of the fasteners. However, this airplane is of Canadian manufacture and there are none registered in the U.S to which the AD presently applies.

Since this rule does not burden any person in view of the fact that there are presently no U.S. registered CL-215 type airplanes, notice or public procedure hereon are unnecessary.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are I. Mankuta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

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

CANADAIR: Applies to Canadair CL-215-1A10 Airplanes, Serial Numbers 1001 through 1040 and 1046 certificated in all categories that have not been altered in accordance with Canadair Service Information Circular No. 136-CL-215.

Compliance required prior to U.S. Airworthiness certification.

Inspect and alter main landing gear actuator attachment fitting P/N 215-34014 -1 and -2 in accordance with Canadair Service Information Circular No. 136-CL-215, page 2 of 3 dated June 11, 1976, or an approved equivalent.

Equivalent inspections and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment becomes effective on May 26, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on May 12, 1977.

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

[FR Doc.77-14477 Filed 5-20-77;8:45 am]

[Docket No. 77-GL-11, Amdt. 39-2904]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison, Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires that certain engines equipped with P/N 6887113 or 6888633 third stage turbine wheels be operated with a power turbine (N_2) operating speed restriction. This engine operating limitation prohibits sustained operation in the 90 to 98 percent N_2 range. It thereby reduces the risk of third stage turbine blade failure due to vibrational stress which results from operating certain unidentifiable wheels at these N_2 speeds.

NOTE.—All operators are cautioned that it has not been conclusively determined that compliance as herein prescribed will eliminate all of the risk factor which attaches to this condition.

EFFECTIVE DATE: June 24, 1977.

COMPLIANCE

Compliance required within the next 10 hours time in service after the effective date of this AD.

ADDRESSES: Copies of Detroit Diesel Allison Commercial Engine Bulletins and Commercial Service Letters referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT:

William Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There recently have been several instances of third stage turbine blade failure on 250-C20 series engines equipped with P/N 6887113 third stage power turbine wheels. As a result, in the case of single engine rotocraft, a power reduction was experienced below that necessary to sustain flight.

Investigations revealed that, in each instance, the most probable cause of these failures is high vibratory stresses developed in the blades when the wheel is operated at a speed that excites the disc at a resonant frequency.

The 10 hour time in service compliance time for the operating restriction has been established by the agency on the basis of safety considerations. This compliance time provides the lead time for operators to schedule and plan compliance with the AD with a minimum burden. To prescribe the operating restriction required by this AD under the usual notice and public procedures followed by the agency within the time the agency has determined is required in the interest of safety, would necessarily result in a reduction of the compliance time required by this AD. This could possibly leave the operators insufficient time to schedule airplanes for compliance with the AD. Therefore, compliance with the operating restriction required by this AD within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective 30 days after publication in the FEDERAL REGISTER. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

Since this condition is likely to exist or develop in other engines of this type design including the 250-B17 series engines, an airworthiness directive is

being issued to prohibit operation in the 90 to 98 percent N_2 speed range.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final rule is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, 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 (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

DETROIT DIESEL ALLISON: Applies to 250–C20, C20B, and C20C engines, as installed in rotorcraft certificated in all categories, equipped with P/N 6887113 or 6888633 third stage turbine wheels that do not incorporate Detroit Diesel Allison Commercial Engine Bulletin 1119 and Commercial Service Letter 1065 or later FAA approved revisions. Applies also to 250–B17 and B17B engines, as installed in aircraft certificated in all categories, equipped with P/N 6887113 or 6888633 third stage turbine wheels that do not incorporate Detroit Diesel Allison Commercial Engine Bulletin 1087 or later FAA approved revisions.

Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

To reduce the risk of engine power loss resulting from third stage turbine blade failure, provide placards, markings, flight manual changes or other appropriate information prohibiting operation of the engine between 90 and 98 percent N_2 except during transients while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine out simulation on multi-engine aircraft. (Detroit Diesel Allison Commercial Service Letters No. 1062 Rev. 1 and 1066 for the 250–C20 series engines and No. 1031 Rev. 1 and 1034 for the 250–B17 series engines also pertain to this subject.)

This amendment becomes effective June 24, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Des Plaines, Ill., on May 11, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

[FR Doc.77–14358 Filed 5–20–77;8:45 am]

[Docket No. 77–WE–12–AD, Amdt. 39–2905]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics Models 240, 340/440 Airplanes Including Those Modified for Turbopropeller Power per STC's SA1054WE, SA1096WE and SA4–1100

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires repetitive inspections and/or replacement of the nose landing gear uplock quadrant to preclude possible failure of the quadrant due to stress corrosion of the aluminum uplock quadrant lug that could prevent lowering the nose landing gear.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presha, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone 213–536–6351; or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213–536–6274.

SUPPLEMENTARY INFORMATION: There has been a recent report that a Model 340 operator was unable to lower the nose landing gear thereby incurring moderate to extensive damage to the airplane. This has been attributed by the manufacturer to a failed aluminum uplock quadrant lug caused by stress corrosion. The only known previous failure was in 1969 on a military model 240 (T–29B). At that time service bulletins were issued recommending a one time inspection and/or replacement of the part with either an identical uncracked part (aluminum) or a steel alternate part. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require repetitive inspections until the part is replaced with a steel alternate part. New aluminum parts may be installed subject to continued repetitive inspection being accomplished and limited to 1,200 hours total time in service.

The principal authors of this Airworthiness Directive are Fred R. Patschke, Project Engineer, Airframe Branch, Aircraft Engineering Division, FAA Western Region; and Richard G. Wittry, Attorney, Office of the Regional Counsel, FAA Western Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (11 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR Part 39) is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS: Applies to Models 240, 340/440 airplanes, including those modified for turbopropeller power per STC's SA1054WE, SA1096WE, and SA4–1100, certificated in all categories.

Compliance required as indicated.

To detect stress corrosion to the aluminum uplock quadrant lug in the nose landing gear and prevent possible failure of the lug, accomplish the following:

(a) Within the next 60 hours time in service after the effective date of this AD, and at intervals not to exceed 60 hours time in service thereafter, until (c), below, is performed:

(1) Remove the AN 3–21 bolt attaching the nose landing gear uplatch release cable clevis and the emergency release cylinder to the uplock assembly.

(2) Inspect P/N 240–5250109–6 nose landing gear uplock quadrant for cracks in the AN3 bolt attach lug using a 2X or stronger magnifier, or dye penetrant method.

(3) If cracks are found, prior to further flight, replace the quadrant with either a new aluminum quadrant, P/N 240–5250109–6, or a steel quadrant, P/N 240–5250109–9. If a new aluminum quadrant is installed, perform steps (1) through (4) at intervals not to exceed 600 hours time in service.

(4) Reinstall the AN3 bolt attaching release cable and emergency release cylinder and check rigging of the nose landing gear uplock installation per the applicable maintenance manual.

(b) After the effective date of this AD, all aluminum quadrants, P/N 240–5250109–6, must be replaced before accumulating 1,200 hours time in service.

(c) Installation of a steel quadrant, P/N 240–5250109–9, constitutes terminating action for this AD, and normal maintenance practices may be observed.

(d) Special flight permits may be issued in accordance with FAR 21.197 to authorize operation of the aircraft to a base for the accomplishment of the inspections required by this AD.

(e) Equivalent inspections and replacement parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

NOTE.—General Dynamics Service Bulletins 600 (240D) Service Bulletin No. 32–3 and 640 (340D) Service Bulletin No. 32–2 pertain to this same subject.

This amendment becomes effective May 26, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on May 9, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77–14475 Filed 5–20–77;8:45 am]

[Docket No. 77-WE-14-AD; Amdt. 39-2906]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive which requires a visual inspection of the elevator gear tab crank arm assemblies and the gust lock assembly for failure and/or cracks. Failure of the elevator gear tab crank arm could cause loss of longitudinal control on takeoff or in flight.

EFFECTIVE DATE: May 26, 1977. Compliance required within the next 300 hours time in service or 30 days after the effective date of this AD, whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213-536-6351; or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213-536-6274.

SUPPLEMENTARY INFORMATION: The FAA has received a report that an airplane landed in strong gusty winds (30 knots steady with gusts to 50 knots). While taxiing crosswise to the wind the crew activated the elevator gust lock handle, with the handle forces encountered being normal. The gust lock is designed to immobilize the elevator in the neutral or faired position while on the ground to prevent elevator movement and possible damage due to gusts. The airplane was then parked with the tail directly into the wind. At this point, the control columns were agitating fore and aft to such a degree as to cause concern for injury to the crew by being struck by the control column. The airplane remained parked tail to the wind for some time. When the next crew boarded for the return flight, the control columns were stationary, although the wind was still blowing strongly.

During taxi for takeoff, the crew performed the normal elevator control throw check, with no problems being detected. During the takeoff roll, at approximately 80 to 90 knots, the nose of the airplane became light. The crew checked to assure the gust lock had been removed. The airplane then lifted off despite pilot action to lower the nose of the airplane. The pilot raised the gear, applied forward control pressure, the left wing dropped, and the airplane landed gear up. All four engines were knocked off the airplane before it stopped.

Investigation revealed that the gust lock crank arm was broken and that the elevator geared tab drive arms on the left elevator were failed. It appeared the elevators had been driven beyond normal limits, which caused damage to the elevator leading edge and control linkages. This damage possibly caused jamming of the elevator in the airplane nose up position, which caused the airplane to rotate prematurely.

The manufacturer has issued Alert Service Bulletin A27-262 specifying visual inspection of the elevator geared tab crank arm assemblies and gust lock assembly for failure and/or cracks. 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 to require inspection of the McDonnell Douglas Model DC-8 Series elevator geared tab crank arm assemblies and gust lock assembly.

The principal authors of this Airworthiness Directive are Everett W. Pittman, Aerospace Engineer, AWE-122, Aircraft Engineering Division, FAA Western Region; and Richard G. Wittry, Attorney, Office of the Regional Counsel, AWE-7.2, FAA Western Region.

Accordingly, 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 (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDONNELL DOUGLAS: Applies to Model DC-8 Series airplanes, certificated in all categories.

Compliance required within the next 300 hours time in service or 30 days after the effective date of this AD, whichever comes first, unless already accomplished within the past 30 days.

To detect cracks and prevent failure or jamming of the elevator geared tab crank arm and gust lock assemblies, comply with the following:

(a) Visually inspect both the left and right side inboard and outboard elevator geared tab crank arm assemblies, P/N's 4710541 and 4710542 for failure and/or cracks.

(b) Visually inspect the P/N 5044178 gust lock assembly, and specifically, the torque tube section of the P/N 4044181 crank assembly, for failure and/or cracks.

(c) Failed or cracked parts must be replaced with like serviceable parts before further flight.

(d) Verify that clearance exists between the crank assemblies, P/N 4710541 and 4710542, and the box section for all positions along elevator travel.

NOTE.—McDonnell Douglas DC-8 Alert Service Bulletin A27-262, dated April 28, 1977, covers the same subject.

(e) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base to perform the inspections required by this AD.

This amendment becomes effective May 26, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on May 9, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-14476 Filed 5-20-77;8:45 am]

[Docket No. 76-NE-28; Amdt. 39-2910]

PART 39—AIR WORTHINESS DIRECTIVES

Pratt & Whitney JT8D-1, -1A, -1B, -7, -7A, -9, -9A, and -11 Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will amend Airworthiness Directive 76-24-01, Amendment 39-2775 by revising the compliance time of the present AD to require earlier removal of the eighth stage compressor disk, P/N 496908. The amendment will also incorporate an eddy current inspection procedure as an alternative to disk removal prior to December 31, 1977.

Subsequent to the issuance of AD 76-24-01, Amendment 39-2775, an operator experienced an eighth stage compressor disk failure which resulted in serious aircraft damage. After review of this failure and the preceding failure history, the FAA has determined it necessary, in the interest of safety, to revise the compliance time of AD 76-24-01.

DATES: Effective date, June 22, 1977.

Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: Persons, affected by this directive, desiring copies of Pratt & Whitney Aircraft Special Instruction No. SI-10F-77, titled "Eddy Current Inspection of Eighth Stage Disk," may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section, ANE-214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone 617-273-7337.

SUPPLEMENTARY INFORMATION: AD 76-24-01, Amendment 39-2775 (41 FR 52047), appeared in the FEDERAL REGISTER on November 26, 1976. The AD was issued to require removal of the eighth stage compressor disk, P/N 496908, due to fatigue cracking of the disk which resulted in uncontained failure of the disk.

A Notice of Proposed Rule Making appeared in the FEDERAL REGISTER on April

4, 1977 (41 FR 52017). This NPRM proposed to modify the compliance time in the present AD by requiring eight stage disk removal by June 30, 1977, for those disks above 8,000 cycles, in lieu of the present requirement to remove disks by December 31, 1977, for those disks above 6,000 cycles. In addition, the NPRM proposed to create another compliance category which would allow disks between 6,000 and 8,000 cycles to continue in service until September 30, 1977, after which they must be removed. The NPRM also proposed a new retirement life of 6,000 cycles for P/N 496908 compressor disks after September 30, 1977.

This amendment, as adopted, will incorporate the accelerated removal schedule and additional compliance category as proposed in the NPRM. It will also provide an eddy current inspection as an alternative to disk removal for those disks in both the June 30, 1977, and September 30, 1977, compliance categories. Disks in both categories will be permitted to continue in service, under the provisions of the inspection procedure, until December 31, 1977. After December 31, 1977, the retirement life for the P/N 496908 compressor disk will be 6,000 cycles since new.

After the issuance of AD 76-24-01, a U.S. certificated air carrier experienced a severe eighth stage compressor disk failure while climbing through 14,000 feet. The disk sustained a 360° rim separation which exited through a 12-inch by 20-inch hole in the engine case, resulting in separation of the engine starter, start bleed valve, and portions of the upper and lower cowling. A review of the preceding failure history indicated six similiar uncontained disk failures, two of which resulted in fires and five of which caused secondary aircraft damage. Based on the degree of serious secondary aircraft damage sustained during these failures, the FAA has determined that the eighth stage compressor disk failure mode does have potentially hazardous effects due to the release of high energy projectiles. The original AD compliance was based upon a low energy type failure. Therefore, the FAA has determined it necessary, in the interest of safety, to revise the compliance time of AD 76-24-01 to require earlier removal of eighth stage compressor disks.

The final rule differs from the proposed rule in that it incorporates an eddy current inspection as an alternative to disk removal prior to December 31, 1977. Therefore, operators may elect to continue disks in service beyond the June 30, 1977, and September 30, 1977, removal dates providing they inspect these disks in accordance with the approved inspection procedures. The final rule allows disks, operated under the provisions of the inspection procedure, to continue in service until December 31, 1977, after which they must be retired. The final rule also establishes a retirement life of 6,000 cycles for the P/N 496908 compressor disk after December 31, 1977, in lieu of the September 30, 1977, date in the proposed rule. In addition, minor editorial changes were made to clarify the compliance requirements of the AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Several commentators stated that the disk removal compliance dates in the NPRM would generate overhaul shop workloads significantly beyond their capacity causing increased aircraft out-of-service days due to maintenance delays. In addition, these commentators stated that the overhaul shop and aircraft days out-of-service situation would be further aggravated by a shortage of replacement eighth stage disks and associated engine hardware needed to rebuild engines after disk replacement. Shortages of other engine parts would require engines to be rebuilt, after disk replacement, with uneconomically short times before next scheduled shop maintenance visit.

A comment was received from the manufacturer which suggested the use of an eddy current inspection procedure as an alternative to disk removal. The inspection procedure utilizes an eddy current probe, inserted through holes drilled in the seventh and eighth stage stator outer shrouds, to detect cracks in the eighth stage disk. The crack detection capability of the inspection method combined with a 120-cycle repetitive inspection requirement is designed to ensure continued safe operation of the P/N 496908 compressor disk until its removal. Other commentators also suggested the use of the eddy current inspection as an alternative to disk removal which will alleviate aircraft grounding, premature engine removals, and provide flexibility in maintenance scheduling.

Another commentator suggested that eddy current inspection procedure be used as an alternative to disk removal but suggested that all disks with over 6,000 cycles continue in service until September 30, 1977. After September 30, 1977, these disks must be removed or subjected to eddy current inspection. Disks operating under the provisions of the eddy current procedure may continue in service until December 31, 1977. The commentator stated that the September 30, 1977, compliance date would provide adequate time for operators to prepare for the eddy current inspection program, by procuring probes, training personnel, and drilling inspection holes, without disruption of public service during the busy summer season. In addition, the commentator stated that statistical probability analysis predicted only a small improvement in expected failure rate for the June 30, 1977, NPRM compliance date as opposed to the suggested September 30, 1977, date.

The FAA concurs with the use of an eddy current inspection procedure as an alternative to disk removal. The final rule will therefore incorporate provisions to continue disks in service beyond the removal dates proposed in the NPRM with a December 31, 1977, limiting date providing they are inspected in accordance with Pratt & Whitney Aircraft Special Instruction No. SI-10F-77, titled "Eddy Current Inspection of Eighth Stage Disk."

The FAA believes that incorporation of the eddy current inspection in the final rule, as an alternative to disk removal, will provide sufficient relief in the areas of overhaul shop capacity, engine replacement parts, and economical build standards.

The FAA has also determined that the eddy current inspection probes will be available in a time frame compatible with the requirements of the final rule.

However, the FAA does not agree with the commentator's suggestion that all disks over 6,000 cycles should be allowed to operate until September 30, 1977, before they must be removed or subjected to the eddy current inspection. The June 30, 1977, compliance date for disks over 8,000 cycles was selected only after careful consideration of all pertinent safety factors including failure modes and preceding failure history. After additional review of this entire matter of compliance time, the FAA still considers that the June 30, 1977, and September 30, 1977, compliance dates, as proposed in the NPRM, represent the most appropriate compliance period for this AD in terms of safety.

This AD will affect U.S. domestic carriers and foreign carriers by requiring increased maintenance effort to meet the disk removal or optional disk inspection requirements. It is expected that the optional eddy current inspection provisions of the final rule will significantly reduce the economic impact anticipated under the fixed time disk removal requirements of the NPRM.

Drafting Information

The principal authors of this document are Jay J. Pardee, Engineering and Manufacturing Branch, and George L. Thompson, Regional Counsel Office.

Adoption of the Amendment

Accordingly, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2775 (41 FR 52047), AD 76-24-01 is amended as follows:

1. By deleting the words in Paragraph 1 beginning with "prior to reaching" and ending with "not to be exceeded."

2. By inserting in Paragraph 1 after "P/N 496908" the words "in accordance with the following schedule:."

3. By adding the following new paragraphs:

"A. After June 30, 1977, remove disks prior to accumulating 8,000 cycles since new. In lieu of removal, disks may be continued in service until December 31, 1977, if inspected in accordance with Pratt & Whitney Aircraft Special Instruction No. SI-10F-77 by June 30, 1977, and every 120 cycles thereafter. Cracked disks shall be replaced prior to further flight. The established life limit of 11,000 cycles shall not be exceeded.

B. After September 30, 1977, remove disks prior to accumulating 6,000 cycles since new. In lieu of removal, disks may be continued in service until December 31, 1977, if inspected in accordance with Pratt & Whitney Aircraft Special Instruction No. SI-10F-77 by September 30, 1977, and every 120 cycles thereafter. Cracked disks shall be replaced

prior to further flight. The established life limit of 11,000 cycles shall not be exceeded.

After December 31, 1977, P/N 496908 compressor disk retirement life is 6,000 cycles since new.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the 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 that operator.

The manufacturer's Special Instruction No. SI-10F-77 identified and described in this directive is 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 Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (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)).)

This amendment becomes effective on June 22, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Massachusetts, on May 18, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 16, 1967.

[FR Doc.77-14655 Filed 5-20-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 16773, Amdt. No. 1073]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautic materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective June 30, 1977:

Delano, CA—Delano Muni., VOR Rwy 32, Amdt. 1.
West Palm Beach, FL—Palm Beach International, VOR Rwy 9L, Amdt. 9.
Marion, IL—Williamson County, VOR-A, Amdt. 2.
Marion, IL—Williamson County, VOR Rwy 2, Amdt. 7.
Marion, IL—Williamson County, VOR Rwy 20, Amdt. 9.
Alpena, MI—Phelps-Collins, VOR Rwy 12 (TAC), Amdt. 6.
Alpena, MI—Phelps-Collins, VOR Rwy 18 (TAC), Amdt. 7.
Alpena, MI—Phelps-Collins, VOR Rwy 36 (TAC), Amdt. 8.

Lebanon, NH—Lebanon Regional, VOR-A, Amdt. 12.
Truth or Consequences, NM—Truth or Consequences Municipal, VOR-A, Amdt. 8.
Midland, VA—Warrenton-Fauquier, VOR Rwy 14, Amdt. 1.

* * * Effective May 12, 1977:

Nantucket, MA—Nantucket Memorial, VOR Rwy 24, Amdt. 8.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, LOC(BC) Rwy 27R, Amdt. 7.
Moline, IL—Quad-City, LOC BC Rwy 27, Amdt, 17.
Joplin, MO—Joplin Muni., LOC BC Rwy 31, Amdt. 15.
Lebanon, NH—Lebanon Regional, LOC Rwy 7, Original.

* * * Effective June 2, 1977:

Pine Bluff, AR—Grider Field, LOC Rwy 17, Original.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, NDB Rwy 9L, Amdt. 14.
Marion, IL—Williamson County, NDB Rwy 20, Amdt. 3.
Moline, IL—Quad-City, NDB Rwy 9, Amdt. 22.
Alpena, MI—Phelps-Collins, NDB Rwy 18, Amdt. 10, cancelled.
Joplin, MO—Joplin Muni., NDB Rwy 13, Amdt. 19.
Lebanon, NH—Lebanon Regional, NDB-B, Amdt. 1.

* * * Effective June 16, 1977:

Miami, FL—Dade-Collier Training and Transition, NDB Rwy 9, Admt. 9.
Naples, FL—Naples Muni., NDB Rwy 4, Amdt. 1.
Naples, FL—Naples Muni., NDB Rwy 22, Amdt. 1

The FAA published an amendment in docket No. 16741, Amdt No. 1070 to part 97 of the Federal Aviation Regulations (42 FR 21609; April 28, 1977) under § 97.27 effective June 16, 1977, which is hereby amended as follows: Marathon, FL—Marathon Flight Strip, NDB Rwy 7 Original is rescinded.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, ILS Rwy 9L, Amdt. 16.
Marion, IL—Williamson County, ILS Rwy 20, Amdt. 3.
Moline, IL—Quad City, ILS Rwy 9, Amdt. 22.
Columbus West Point Starkville, MS—Golden Triangle Regional, ILS Rwy 18, Amdt. 1.
Joplin, MO—Joplin Muni., ILS Rwy 13, Amdt. 17.
Lebanon, NH—Lebanon Regional, ILS Rwy 7, Amdt. 4.

* * * Effective June 16, 1977:

Miami, FL—Dade-Collier Training and Transition, ILS Rwy 9, Amdt. 9.

The FAA published an amendment in Docket No. 16659, Amdt No. 1063 to Part 97 of the Federal Aviation Regulations (42 FR 20118; April 18, 1977) under § 97.29 effective May 26, 1977, which is hereby amended as follows: Richmond, VA—Richard Evelyn Byrd Int'l Arpt., ILS Rwy 15, Amdt. 1 is rescinded.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, RADAR-1, Amdt. 6.
Moline, IL—Quad-City, RADAR-1, Amdt. 1.
Erie, PA—Erie Int'l, RADAR-1, Amdt. 3.

* * * Effective May 5, 1977:

Great Falls, MT—Great Falls Int'l, RADAR-1, Amdt. 7.

6. By amending § 93:33 RNAV SIAPs identified as follows:

* * * Effective June 30, 1977:

Joplin, MO—Joplin Muni., RNAV Rwy 31, Amdt. 2.

* * * Effective May 5, 1977:

Spartanburg, SC—Spartanburg-Downtown Memorial, RNAV Rwy 4, Amdt. 4.

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 1354(a), 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 13, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-14357 Filed 5-20-77;8:45 am]

Title 17—Commodities and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-20002]

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Annual Report Form U5S; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction.

SUMMARY: This document corrects FR Doc. 77-13718, 42 FR 24253, May 13, 1977. The signature and date which appear at the end of the document on page 24254 should be George A. Fitzsimmons, Secretary, April 27, 1977.

EFFECTIVE DATE: No change from original document.

FOR FURTHER INFORMATION CONTACT:

Andrew F. MacDonald, Division of Corporate Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-523-5683).

GEORGE A. FITZSIMMONS,
Secretary.

MAY 17, 1977.

[FR Doc.77-14564 Filed 5-20-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Income Tax Deduction for Removing Certain Barriers to Handicapped and Elderly; Public Hearing on Interim Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on interim regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations concerning income tax deductions for removing certain barriers to the handicapped and elderly.

DATES: The public hearing will be held on June 21, 1977, beginning at 10 a.m. Outlines of oral comments are due by June 13, 1977.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George H. Bradley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4317, Washington, D.C. 20224 (202-566-3935).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is interim regulations under section 190 of the Internal Revenue Code of 1954 which appear in the FEDERAL REGISTER for April 4, 1977 (42 FR 17870). This statutory provision relates to income tax deductions for certain expenditures to remove architectural and transportation barriers to the handicapped and elderly.

A correction notice was published in the FEDERAL REGISTER for April 14, 1977 (42 FR 19479).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rule making and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by June 13, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Each speaker

will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers, and copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-14622 Filed 5-20-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 725-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Conduct of Legal Proceedings

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under 28 U.S.C. 515(a), Department of Justice attorneys, when specifically directed by the Attorney General, are authorized to conduct any kind of legal proceeding, including grand jury proceedings, which United States Attorneys are authorized by law to conduct, whether or not the attorney is a resident of the district where the proceeding is brought. Present regulations delegate certain of the Attorney General's authority under this statute to certain Department officials. This order broadens the authority delegated by the Attorney General expressly to include the designation of attorneys to conduct legal proceedings, and extends the delegation to all Divisions.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202-739-2041).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. A new § 0.13 is added at the end of Subpart B, to read as follows:

§ 0.13* Legal proceedings.

(a) Each Assistant Attorney General and Deputy Assistant Attorney General is authorized to exercise the authority of the Attorney General under 28 U.S.C. 515(a), in cases assigned to, conducted, handled, or supervised by such official, to designate Department attorneys to conduct any legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which United States attorneys are authorized by law to conduct, whether or not the designated attorney is a resident of the district in which the proceedings is brought.

(b) Each Assistant Attorney General is authorized to redelegate to Section Chiefs the authority delegated by paragraph (a) of this section, except that such redelegation shall not apply to the designation of attorneys to conduct grand jury proceedings.

§ 0.40 [Amended]

2. Paragraph (a) of § 0.40 of Subpart H is amended by deleting "designation of attorneys to present evidence to grand juries."

§ 0.43 [Revoked]

3. Section 0.43 of Subpart H is revoked.

§ 0.50 [Amended]

4. Paragraph (a) of § 0.50 of Subpart J. is amended by deleting "and designation of attorneys to present evidence to grand juries."

§ 0.60 [Revoked]

5. Section 0.60 of Subpart K is revoked.

(28 U.S.C. 509, 510 and 5 U.S.C. 301.)

Dated: May 12, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-14545 Filed 5-20-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart B—Burial Benefits

HEARSE CHARGES FOR TRANSPORTING BODIES

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: The VA has amended its regulation relating to hearse charges for transporting a body to place of burial.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. H. Spindle, Chief, Regulations Staff, Compensation and Pension Service Veterans Administration, Washing, D.C. 20420 (202-389-3005).

SUPPLEMENTARY INFORMATION: On page 16839 of the FEDERAL REGISTER of March 30, 1977, there was published a notice of proposed regulatory development to amend § 3.1606(b) relating to hearse charges. When a person dies in a Veterans Administration facility to which he or she was properly admitted for hospital, nursing home or domiciliary care under 38 U.S.C. 610 or 611(a), the Veterans Administration is usually required to pay the cost of transporting the body to the place of burial. (38 U.S.C. 903) The Veterans Administration is also directed to pay the cost of transporting the body of certain veterans who die outside of a Veterans Administration facility when burial will be made in a National Cemetery. (38 U.S.C. 908)

Claims have been received for payment of charges for transporting a body by hearse over quite long distances when common carrier service was readily available. In these claims the hearse charges greatly exceeded the common carrier rate. Therefore, § 3.1606 is amended to provide that payment of hearse charges for transporting a body over long distances will be limited to prevailing common carrier rates where it is reasonable and customary for shipment to be made by common carrier. This limitation will not be for application where common carrier service is unavailable or where use of a common carrier would clearly be impractical. When a common carrier is used to transport a body, charges for use of a hearse to deliver the body to and from the carrier will be paid.

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

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved: May 11, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 3.1606, paragraph (b)(3) is added to read as follows:

§ 3.1606 Transportation items.

The transportation costs of those persons who come within the provisions of §§ 3.1600(g) and 3.1605 (a), (b), (c) and (d) may include the following:

* * * * *

(b) *Transported by hearse.* * * *

(3) Payment of hearse charges for transporting the remains over long distances are limited to prevailing common carrier rates when common carrier service is available and can be easily and effectively utilized.

[FR Doc.77-14558 Filed 5-20-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 715-8]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Compliance With Standards and Maintenance Requirements

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action amends the general provisions of the standards of performance to allow methods other than Reference Method 9 to be used as a means of measuring plume opacity. The Environmental Protection Agency (EPA) is investigating a remote sensing laser radar system of measuring plume opacity and believes it could be considered as an alternative method to Reference Method

9. This amendment would allow EPA to propose such systems as alternative methods in the future.

EFFECTIVE DATE: June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone no. 919-688-8146, ext. 271.

SUPPLEMENTARY INFORMATION: As originally expressed, 40 CFR 60.11(b) permitted the use of Reference Method 9 exclusively for determining whether a source complied with an applicable opacity standard. By this action, EPA amends § 60.11(b) so that alternative methods approved by the Administrator may be used to determine opacity.

When § 60.11(b) was originally promulgated, the visible emissions (Method 9) technique of determining plume opacity with trained visible emission observers was the only expedient and accurate method available to enforcement personnel. Recently, EPA funded the development of a remote sensing laser radar system (LIDAR) that appears to produce results adequate for determination of compliance with opacity standards. EPA is currently evaluating the equipment and is considering proposing its use as an alternative technique of measuring plume opacity.

This amendment will allow EPA to consider use of the LIDAR method of determining plume opacity and, if appropriate, to approve this method for enforcement of opacity regulations. If this method appears to be a suitable alternative to Method 9, it will be proposed in the FEDERAL REGISTER for public comment. After considering comments, EPA will determine if the new method will be an acceptable means of determining opacity compliance.

(Secs. 111, 114, 301(a), Clean Air Act, sec. 4(a) of Pub. L. 91-604, 84 Stat. 1683; sec. 4(a) of Pub. L. 91-604, 84 Stat. 1687; sec. 2 of Pub. L. No. 90-148, 81 Stat. 504 (42 U.S.C. 1857c-6, 1857c-9 and 1857g(a)).)

NOTE.—Economic Impact Analysis: The Environmental Protection Agency has determined that this action does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: May 10, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 60.11 is amended by revising paragraph (b) as follows:

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of this part or any alternative method that is approved by the Administrator. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this part, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

* * * * *

(Secs. 111, 114, 301(a), Clean Air Act, Sec. 4 (a) of Pub. L. 91-604, 84 Stat. 1683; sec. 4(a) of Pub. L. 91-604, 84 Stat. 1687; sec. 2 of Pub. L. No. 90-148 81 Stat. 504 (42 U.S.C. 1857c-6, 1857c-9, 1857g(a)).)

[FR Doc.77-14562 Filed 5-20-77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 146—MODERN FOREIGN LANGUAGE AND AREA STUDIES

Awards of Grants and Contracts

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: These proposed regulations set forth rules and criteria governing the award of grants and contracts to institutions of higher education, qualified organizations and individuals for the purpose of providing Federal financial assistance to establish and operate Language and Area Studies Centers, Graduate and Undergraduate International Studies Programs, for the award of fellowships to individuals undergoing training in any center or under any program receiving Federal financial assistance under the NDEA Act, and for research and studies.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

DATES: None.

ADDRESSES: None.

FOR FURTHER INFORMATION CONTACT:

Edward L. Meador, Division of International Education, 7th and D Streets, SW., Room 3907, Regional Office Building #3, Washington, D.C. 20202 (202/245-9691)

SUPPLEMENTARY INFORMATION: The National Defense Education Act of 1958 in its statement of findings and declaration of policy says, "The Congress finds and declares that the security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women. The present emergency demands that additional and more adequate educational opportunities be made available. The defense of this Nation depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge."

(20 U.S.C. 401.)

The importance of a knowledge of foreign languages and area studies to the attainment of this policy was recognized by the inclusion in the Act of Title VI—Modern Foreign Language and Area Studies. This Title authorizes: Federal financial assistance to institutions of higher education for the establishment and operation of International Studies Centers and for Graduate and Undergraduate International Studies Programs, fellowships for graduate students in foreign language and area studies, and Federal financial assistance to public and private agencies, organizations and institutions as well as individuals for research in the area of foreign language and area studies.

"The International Studies Centers Program" provides grants to higher education institutions or consortia of such institutions to establish and operate centers focusing on one world region. These centers offer instruction in two or more of the area's principal languages and in other disciplines in order to provide training in understanding that particular world area. Other centers that feature instruction in comparative approaches to topics of concern to more than one nation, international relations, or interregional studies are also eligible for support. Awards are available in each category to centers having a combination of graduate and undergraduate instruction (unless undergraduate instruction is not offered) as well as to those offering only undergraduate training.

"The Graduate and Undergraduate International Studies Programs" may provide grants of up to two years, or in certain instances 3 years, to higher education institutions or consortia of such institutions to establish instructional programs in international studies at the graduate or undergraduate levels. Programs must be global or multi-area in instructional coverage. "Graduate Inter-

national Studies Programs" are designed to strengthen linkages among disciplines and between various international specialties and professional schools to bring an interdisciplinary and/or comparative focus to issues or topics of concern to more than one nation. "Undergraduate International Studies Programs" are designed to develop an international dimension in the general education program of institutions, particularly in the first 2 years of postsecondary study.

The "Foreign Language and Area Studies Fellowships Program" offers academic-year awards for graduate students in foreign language and area studies. Quotas of fellowships are made to selected U.S. higher education institutions, and individuals apply to these institutions for fellowships. Institutions selected for quotas of fellowships have programs in the field of language and area studies that may be interdisciplinary or multidisciplinary, and may include such fields as anthropology, economics, geography, history, linguistics, literature, philosophy, political science, sociology, or other professional studies, and must include study of the language(s) of the geographic area of specialization.

One commenter addressing this area (§ 146.33(a)), requested an explanation as to the source and rationale for the priority discipline, language and world area designation.

In view of general Federal budget priorities and funding constraints, the current employment realities regarding supply and demand for international studies specialists, and the basic justification for the available fellowships appropriation—a sharper focus and higher priority on the disciplines, languages, and world area where there are critical shortages of highly trained personnel—the Commissioner necessarily emphasizes increasing preference for those quality programs which reflect the national interest disciplinary priorities. However, the increasing emphasis on the priority disciplines is made within the context of the total resources of language and area studies centers/programs, i.e., it is only one criterion albeit an important one, on which the quality of the centers/programs will be evaluated.

The specific priorities were determined by periodic conferences and studies, the latest of which was the "Language and Area Studies Review" by Richard D. Lambert, sponsored by the Social Science Research Council and funded by the U.S. Office of Education.

Although no formally structured mechanism for the assessment of priorities exists, the Commissioner with the assistance of scholars experienced in the world area will periodically review the priorities.

The "Research and Studies Program" supports surveys and studies to determine the need for increased or improved instruction in modern foreign language, area, and international studies or to develop more effective methods or specialized materials for such training.

Public and private agencies, organizations and institutions as well as individuals may apply to the Commissioner of Education for support under the research program.

Notice of proposed rulemaking was published in the FEDERAL REGISTER of August 12, 1976 (41 FR 34052–34060) setting forth regulations for Modern Foreign Language and Area Studies, authorized by Title VI of the National Defense Education Act of 1958 as amended (20 U.S.C. 511–513). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92–318), hearings were held in Washington on September 28, 1976 and comments were received on the proposed regulation. In addition, written comments were received and considered.

The following is a discussion of comments received, with each comment followed by the response of the Office of Education.

SUMMARY OF COMMENTS AND RESPONSES

1. 146.2 DEFINITIONS

Comment. A commenter suggested that the examples of disciplines provided in the definition of a center should include geography, language and literature, and sociology and that the examples should be the same wherever provided (§ 146.2(c) and § 146.12(c)).

Response. This suggestion reflects current program policy and the suggested addition of examples has been made in § 146.2(c) and § 146.12(c).

2. 146.11(b) SCOPE

Comment. A commenter suggested that Bangladesh be added to the list of countries included in South Asia.

Response. The Commissioner agrees and the suggestion is adopted. Further, Nepal was also added to the list of countries in South Asia.

3. 146.12 CORE INSTRUCTIONAL ACTIVITIES

Comment. A commenter suggested that "Centers offering instruction in international studies with other than a single area studies focus" should be able to draw on existing language instruction facilities and ought not to become involved in developing language instruction unless inadequate facilities make it necessary.

Response. This suggestion reflects current program policy and § 146.12(b) has been amended to reflect the change.

Comment. One commenter objected to what he assumed was the requirement in § 146.12(c) for the inclusion of professional training in center's core instructional offerings. The comment expresses a preference for use of recommendation and persuasion by centers to influence professional schools.

Response. The suggestion was not adopted. The language of the section specifies examples of the types of linkages that may be arranged between centers and professional training programs to satisfy this section of the regulations. The examples do not indicate that a center must force its courses on professional schools, but rather that persuasion be used to influence those schools to participate in the activities of the Center.

4. 146.13 EDUCATIONAL OUTREACH ACTIVITIES

Comment. A commenter suggested that the wording in § 146.13(b)(2) be modified to emphasize that outreach activities be directed to schools and teachers.

Response. This suggestion was accepted and the regulation was modified accordingly.

Comment. Obligating centers to spend 15 percent of their funds for outreach activities is either superfluous or wrong. If the Office of Education puts emphasis on outreach, it is wrong because 15 percent is a small proportion. It is superfluous if an institution agrees that outreach activities are important.

Response. The regulation was not changed in § 146.13(c). The stipulation that the equivalent of 15 percent of the grant funds be used for outreach activities was intended to stimulate all centers to engage in activities that would use the resources developed in the core program to strengthen international education in other institutions or agencies. Each center will plan its outreach activities in relation to its resources and the needs of its area. An amount which represents at least 15 percent of the grant was thought to be sufficient as a minimum for outreach activities but not so large that it would weaken the core program.

5. 146.14 CRITERIA FOR SELECTION OF CENTERS

Comment. A commenter suggested that the word "center" be replaced by the word "program" in § 146.14(a)(5) and (7) because "program" implies a broader concept of institutional support and because institutional assistance to professional associations should be a positive factor in the evaluation process.

Response. The regulation was not changed. The definition of "center" and the criteria for selection make clear that the center's basic purpose is to make available to students a wide range of educational resources. Because the general purpose of the NDEA centers' program is to assure the availability of instructional resources, the suggested award of Federal funds on the basis of criteria not directly related to the institution's instructional program would be inappropriate.

Comment. Several suggestions were made to eliminate § 146.14(b) because it was assumed that geographical location as a consideration for a grant award would result in awarding grants to centers having lower substantive qualifications.

Response. These suggestions have not been adopted. The legislative history is clear that Title VI was passed to address nationwide needs for instruction in modern foreign languages and related fields. These needs are not unique to any particular areas of the country. Consequently since the money available is limited, it is appropriate, in selecting grantees to take into account the proximity of a proposed center to any other

center focusing on the same world area or specialized field of study. To fail to do so could result in a duplication of available center programs and dilute the potential national impact of the program. As expressly indicated in the regulation provision, the subject criterion does not supplant considerations of program excellence; it is merely another factor to be taken into consideration.

6. 146.16 ALLOWABLE COSTS

Comment. Objection is raised to specific exclusion of research from allowable costs. Two alternative suggestions are made for inclusion of research:

1. Allot a certain percentage of center funding to language and area research to be administered by a committee at the center institution.

2. Broaden the scope of subpart E to include the type of basic research in African (and possibly other non-Western) studies without which effective instructional material cannot be prepared.

Response. These suggestions are not adopted.

1. There is a faculty research program under Fulbright-Hays.

2. Considerable support is now given to research in centers through salaries of faculty who normally do research, foreign travel of staff engaged in research and library acquisitions to further research.

3. NDEA center grants have been relatively immune from sensitivity in the foreign policy arena. This immunity could easily be lost if NDEA funds were used for even a limited amount of individual faculty overseas research on subjects that were sensitive in the foreign country.

4. Subpart E, concerning Section 602 Research, does not exclude support of the type of basic research which is prerequisite for the development of effective instructional materials for non-Western languages and areas.

7. 146.31 FELLOWSHIP AUTHORIZATION

Comment. One commenter stated that § 146.31(a) appears to mean that no quotas of Foreign Language and Area Studies fellowships will be allocated to an institution that has neither an international studies center nor a graduate or undergraduate international studies program receiving Federal financial assistance under the Act.

Response. Section 601(b) of Title VI of the National Defense Education Act authorizes the payment of stipends to individuals undergoing advanced training in any center or under any program receiving financial assistance under the title. While this provision is ambiguous, the ambiguity stems from whether the phrase, "receiving financial assistance under this title" qualifies centers as well as programs. We have been advised by the Office of General Counsel that the phrase, "receiving federal funds under this title" may be viewed as modifying only programs and this approach was adopted in these regulations. Thus, a student who does not enroll in either a center or a Title VI funded program is ineligible to receive a fellowship.

Comment. A commenter inquired whether graduate professional students would be eligible to receive a fellowship under the program.

Response. Graduate professional students are eligible and the regulation has been amended to clarify that point.

8. 146.33 CRITERIA FOR DETERMINATION OF INSTRUCTIONAL FELLOWSHIP QUOTAS

Comment. A commenter suggested that § 146.33(a)(1) should not exclude fellowship support for Swahili; that the inclusion of the broad term humanities among specific disciplines in § 146.33(a)(2) was ambiguous; and that professional education in engineering be included in § 146.33(g).

Response. The regulation was not changed. Swahili is not excluded. An institutional application for quotas of fellowships in African studies is evaluated on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b) and the appropriate criteria in § 146.33. Consequently, the language component of an African language and area studies program and/or center is only one factor, albeit an important one, in the determination whether an institution will receive a quota of fellowships in African studies. Moreover, it is not the intent of § 146.33(a)(1) to exclude Swahili but rather to indicate priorities in the support of African language training.

The specific priority disciplines encompassed by the term humanities are listed in § 146.33(a)(1) and were meant to apply to the other world areas, excluding Western European studies. Language clarifying this intent is incorporated in § 146.33(a)(2) through § 146.33(a)(7).

The language in § 146.33(g) does not exclude professional education in engineering provided the institutional application can demonstrate that its center or program offerings in engineering are consistent with the broad fellowship authorization, as stated in § 146.31.

9. 146.35 STUDENT ELIGIBILITY

Comment. A commenter suggested that if an institution cannot utilize all the fellowships that were assigned to a particular language these fellowships be returned to the Office of Education so that they can be used by another institution for the same area languages.

Response. This suggestion has not been adopted. The administrative procedures in the grant process make this suggestion impracticable. The implementation of this suggestion would require an amendment to the grants of two institutions each time an individual fellowship was concerned. Some grant funds could also be lost if the necessary amendments were required after the period for making amendments had expired.

10. 146.36 APPLICATION AND SELECTION OF FELLOWS

Comment. A commenter suggested that the wording "two years of college instruction" in § 146.36(b)(6) and "three years of college instruction" in § 146.36(b)(7) is ambiguous and should be replaced by a specified number of semester or credit hours.

Response. This suggestion is accepted and appropriate changes have been made in § 146.36(b)(6) and (7).

Comment. One commenter suggested that great care be taken to assure that the wording in § 146.36(b)(8) about "documented competency" does not eliminate highly qualified candidates in very rarely taught languages; e.g., Twi, Haitian, Creole, Nepali.

Response. The regulation was not changed. Documented competency does not eliminate the application of beginning students in rarely taught languages. It serves as an indicator of the level of proficiency of the applicant.

11. 146.37 DURATION, AMOUNT, AND PAYMENT OF FELLOWSHIPS

Comment. A commenter suggested that the exclusion of overseas doctoral dissertation research, as specified in § 146.37(a), was both ambiguous, in that it did not prevent a pre-dissertation stage student from working overseas while enrolled for university credit at home, and unfortunate, in that it would eliminate a student's chance to study language in the context of an overseas experience.

Response. The regulation was not changed. The Fellowship authorization and the raison d'etre for the allocation of fellowships among institutions is to enable students who are selected for awards to receive their education at a selected institution. Students are to benefit from the resources available at these institutions' centers and programs of excellence and not necessarily from the resources available overseas. This is not meant to imply that the study of language in the context of culture is not considered important. Section 143.37(c) enables students to do so in established advanced language programs overseas, set up by eligible institutions. What is suggested is that the purpose of this program is not to provide an overseas experience either at the pre-dissertation stage or at the dissertation stage but to provide training at U.S. institutions of higher education. The stipend is totally inadequate to enable a student overseas to conduct meaningful research for his dissertation since this was not the basic intention.

Comment. A commenter suggested that stipends remain unrealistically low, reflecting no adjustment for inflation that has occurred since the inception of the three-year incremental rate, and, more importantly, no meaningful change since the $2,250 stipends were established.

Response. Section 146.37(b) is amended to give each Fellow the cost of tuition and fees and a maintenance allowance in the amount of $2,925 per academic year. Concurrently, the dependency allowance of $500 for each dependent was discontinued. The increase in the stipend is expected to compensate adequately for the elimination of the separate dependency

allowance in those grants in which a dependent was concerned. This change will also simplify the administration of the program.

Comment. One commenter suggested that Ph. D. degree in § 146.37(b)(3) be replaced by "approved doctoral program".

Response. Reference to the Ph. D. degree has been eliminated.

12. SUBPART D RESEARCH AND STUDIES

Section 302(d) of Pub. L. 94-482, The Education Amendments of 1976, amended section 602 to give the Commissioner grant authority. Accordingly, §§ 146.51 through 146.55 were modified where appropriate to take that change into account.

13. GUIDELINES, CHAPTER II, PART I-1.2 EDUCATIONAL OUTREACH ACTIVITIES

Comment. A commenter suggested that the Guidelines, Chapter II, Part I, § 1.2 (b) be amended to permit reimbursement for travel for elementary and secondary school teachers participating in center-sponsored workshops.

Response. This suggestion has been adopted in part. The specific exclusion of participant travel from the list of activities for which Federal funds may be used has been deleted. Thus, participant travel will be subject to negotiation for each individual grant.

14. GENERAL COMMENT

Comment. A commenter suggests that the regulations include provisions for (1) rapid and easy access by the centers to their review committees' reports, and (2) establishing a meaningful grievance procedure for those applicants whose proposals are turned down.

Response. This suggestion is being adopted without making a change in the regulations. Modifications are being made in the procedures for notifying institutions that a proposal cannot be funded. This notification will include information on the evaluation of the proposal and the subsequent staff action.

Comment. A commenter suggested that the centers need assurances of committed funds by the January previous to the year in which they will be used. Perhaps "forward funding" is the only solution.

Response. No change in the wording of the regulations is being made as the result of this suggestion since "forward funding" is presently being used. Grants are made for the following academic year as early in the previous academic year as the appropriation and grant review processes allow.

Furthermore, the three year cycle minimizes this problem for the second and third year of the grant.

Comment. A commenter suggested that consideration be given to an institutional administrative supplement.

Response. No change is deemed desirable. It is the policy of the Foreign Language and Area Studies program to pay actual tuition and fees rather than fixed institutional allowances. To pay both cannot be justified in that it essentially means paying twice for the same service.

After consideration of all comments, the Commissioner hereby adopts the proposed regulation which was published in the FEDERAL REGISTER on August 12, 1976, with the changes noted above. This regulation is set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular 107.

(Catalog of Federal Domestic Assistance Programs: 13.434 Foreign Language and Area Studies—Fellowships; 13.435 Foreign Language and Area Studies—Centers—International Studies Program; 13.436 Foreign Language and Area Studies—Research.)

Dated: April 7, 1977.

WILLIAM F. PIERCE,
Acting United States Commissioner of Education.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 146 is revised to read as follows:

Subpart A—General Provisions

Sec.
146.1 Scope and purpose.
146.2 Definitions.
146.3 General provisions regulations.

Subpart B—International Studies Centers

146.11 Scope.
146.12 Core instructional activities.
146.13 Educational outreach activities.
146.14 Criteria for selection of centers.
146.15 Applications.
146.16 Allowable costs.
146.17 Multiyear projects.

Subpart C—Graduate and Undergraduate International Studies Programs

146.21 Scope.
146.22 Graduate international studies programs: activities.
146.23 Undergraduate international studies programs: activities.
146.24 Criteria for selection of graduate and undergraduate international studies programs.
146.25 Applications.
146.26 Allowable costs.
146.27 Multiyear projects.

Subpart D—Foreign Language and Area Studies Fellowships

146.31 Fellowship authorization.
146.32 Allocation of fellowships among institutions.
146.33 Criteria for determination of institutional fellowship quotas.
146.34 Institutional applications.
146.35 Student eligibility.
146.36 Application and selection of fellows.
146.37 Duration, amount, and payment of fellowships.
146.38 Employment.
146.39 Oath and criminal information.
146.40 Student responsibilities.
146.41 Responsibilities of institutions receiving quotas of fellowships.

Subpart E—Research and Studies

146.51 Scope.
146.52 Eligible applicants.
146.53 Applications.
146.54 Research activities.
146.55 Criteria for selection of research projects.

AUTHORITY: Title VI, National Defense Education Act of 1958 as amended (20 U.S.C. 511-513).

Subpart A—General Provisions

§ 146.1 Scope and purpose.

It is the purpose of this part to provide Federal financial assistance to institutions of higher education (a) for the establishment and operation of centers for the teaching of modern foreign languages and such other related fields needed to provide a full understanding of the areas in which such languages are commonly used and international studies with other than a modern foreign language and area studies focus, (b) for the establishment and operation of programs at the undergraduate and graduate level in international studies and the international aspects of professional and other fields of study, (c) for the award of fellowships to individuals undergoing advanced training in any center, or under any program receiving Federal financial assistance under the Act, and (d) for research, including (1) the conduct of studies and surveys to determine the need for increased or improved instruction in modern foreign languages and other related fields; (2) research on more effective teaching methods; and (3) development of specialized materials for training in foreign languages or related fields.

(20 U.S.C. 511, 512)

§ 146.2 Definitions.

(a) "Act" means Title VI of the National Defense Education Act of 1958 as amended.

(20 U.S.C. 511-513)

(b) "Academic year" means a period of time, generally not less than 8 months, in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, or three quarters.

(c) "Center" means an officially designated academic unit of an institution of higher education (or a combination of institutions), with its own administrative structure, encompassing various academic disciplines, such as anthropology, art, business, economics, education, history, law, music, political science, geography, language and literature, and sociology through which a concentration of educational resources is made available for training in modern foreign languages, for instruction in related fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, or for training and research in international studies and the international aspects of professional and other fields of study.

(20 U.S.C. 511-512)

(d) "Institution of higher education" means an institution of higher education as defined in section 103(b) of the National Defense Education Act of 1958.

(20 U.S.C. 403)

(20 U.S.C. 511-512 unless otherwise noted)

§ 146.3 General provisions regulations.

Assistance under this part is subject to the applicable provisions of Subchapter

A of this chapter relating to fiscal, administrative property management, and other matters (General Provisions for Office of Education Programs—45 CFR Part 100a).

(20 U.S.C. 511–512)

Subpart B—International Studies Centers

§ 146.11 Scope.

(a) The Commissioner is authorized to award grants to and contracts with institutions of higher education or consortia of such institutions to pay part of the costs of operating international studies centers. A center may be one of the following two types:

(1) One type of center will provide instruction primarily during the academic year on both the graduate level and the undergraduate level (unless undergraduate instruction is not offered at the institution) in modern foreign languages and area studies or in international studies with other than a modern foreign language and area studies focus.

(2) The other type of center will offer instruction during the academic year on the undergraduate level in modern foreign language and area studies or international studies with other than a modern foreign language and area focus. This undergraduate center shall provide training for students planning to continue their study at the graduate or professional level and shall also help to prepare students for direct entrance into a profession, such as education or business, in which specialized training in international studies plays a significant role.

(b) Centers may focus upon one world region and offer instruction in its principal languages and in related disciplines necessary to provide a full knowledge of that area or they may focus upon international or comparative multidisciplinary studies. The majority of the centers funded, either at the undergraduate, graduate, or combined graduate and undergraduate levels, will focus on single world areas. Such world areas include East Asia (including Japan, China, and Korea), South Asia (India, Sri Lanka, Bangladesh, Nepal, and Pakistan), the Middle East (including North Africa), the Soviet Union and Eastern Europe, Africa, Latin America, Southeast Asia (including Indonesia and the Philippines as well as Vietnam, Cambodia, Laos, Thailand, Malaysia, and Burma), contemporary Western Europe, Canada, and Inner Asia. Of the total number of centers assisted, it is anticipated that not more than 20 percent will be undergraduate centers and not more than 20 percent will be centers with other than a primary focus on foreign language and area studies, such as comparative area studies or international affairs.

(c) Center activities shall be carried out primarily within the United States and principally on the campus (or campuses) of the institution(s) involved.

(20 U.S.C. 511(a))

§ 146.12 Core instructional activities.

(a) Centers offering instruction in modern foreign language and area studies must concentrate on one world region (such as East Asia or Africa) and offer instruction in two or more of that region's principal languages. They must also offer instruction in other fields which are needed to provide a full understanding of the areas, regions, or countries in which the languages are commonly used.

(b) Centers offering instruction in international studies with other than a single area studies focus may offer instruction in international relations (such as diplomacy, law, economics, and politics), in comparative approaches to topics of transnational concern (such as food and hunger, international trade and business, energy and environment), or on studies with an interregional focus. This type of center must also provide multidisciplinary instruction and must assure that foreign language training is available.

(c) All centers must include in their core offerings both interdisciplinary approaches to the world area or topic of the center and a wide range of disciplines, such as anthropology, economics, fine arts, geography, history, language and literature, music, philosophy and religion, political science, and sociology, which may be needed for improved understanding of that world area or topic. Centers shall also incorporate in their core instructional offerings, where relevant, professional training in such fields as education, business, journalism, architecture and urban planning, law, public administration, library science, and the health professions, if such training is available at their institutions. Linkages with such professional training programs may be accomplished in a variety of ways, such as cross-listing of courses and cross-registration, offering of courses on the area or topic of the center's focus in the professional school, preparation of special center courses designed for students in professional training, and formulation of joint degree programs.

(20 U.S.C. 511(a))

§ 146.13 Educational outreach activities.

(a) In addition to the instruction described in § 146.12, centers must provide two or more of the services listed in paragraph (b) of this section (educational outreach activities) to agencies, organizations, and individuals interested in the resources of the center but not a part of the institution(s) operating the center. However, at least one of the services shall be a service listed in paragraphs (b) (1) or (2) of this section.

(b) Educational outreach activities include—

(1) Assistance, such as sharing of library resources, faculty workshops, and cross-registration of students, to other institutions of higher education, particularly those with teacher education programs and two-year colleges;

(2) Assistance, such as in-service teacher training, bibliographic assistance, textbook evaluation, curriculum development, and direct instructional services, to state and local elementary and secondary educational agencies and schools;

(3) Assistance, such as workshops and special courses, to the business community; and

(4) Sharing of resources, such as general lectures, films, and book and art exhibits, with the community at large.

(c) Centers shall expend an amount for outreach activities which represents at least 15 percent of the grant funds awarded under the subpart.

(20 U.S.C. 511(a))

§ 146.14 Criteria for selection of centers.

(a) In addition to evaluation on the basis of criteria found in the Office of Education General Provisions 45 CFR 100a.26(b), the Commissioner will further evaluate applications for Federal support to operate international studies centers in accordance with the following criteria:

(1) The quality of the institution's existing instruction for the world area or topic for which Federal assistance is requested, as evidenced by existing course offerings, faculty qualifications, and the nature and extent of relevant library holdings;

(2) The extent to which the proposed instructional activities of the center will strengthen existing international studies of the institution both in range and in depth;

(3) The extent to which cooperative arrangements have been worked out with other departments, schools, and special and professional programs of the grantee institution and the extent to which the center includes appropriate multi-and inter-disciplinary instruction;

(4) The reasonableness of the allocation of Federal funds among center activities;

(5) The amount and percentage of financial support to be provided to the center by the institution during the grant period. Such support may be measured in terms of the number of tenured faculty in the center, the percent of their time spent on the center's program and the extent to which the core program is built into the regular budget of the institution, including the estimated support for the second and third years of the proposed project;

(6) The regular coursework, language training, courses in area or international studies, and provisions for overseas experience which will be provided students participating in center programs;

(7) The nature and extent of assistance to be provided by the center for educational outreach activities; and

(8) The extent to which provision is made by the institution for overseas experience for faculty and students, and for cooperation with foreign scholars, institutions, and governments.

(b) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those listed in § 100a.26(b), equally in evaluating an application. An applicant may receive as much as five points or as low as zero points under each criterion.

(c) In order to help achieve a reasonable geographic distribution of Title VI international studies centers throughout

the United States the Commissioner will, consistent with desired program excellence, take into account the proximity of any proposed center to any other center focusing on the same world area or specialized field of study in awarding grants under this program.

(20 U.S.C. 511(a))

§ 146.15 Applications.

(a) Applicants for funds under this subpart shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall describe the activities to be undertaken and shall contain sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria established in § 146.14.

(b) Applications from a consortium of institutions of higher education shall designate one of the member institutions as the grantee institution.

(20 U.S.C. 511(a))

§ 146.16 Allowable costs.

(a) Funds awarded under this subpart may be used to pay for those costs reasonably related to the operation of a center.

(b) Funds awarded under this subpart may not be used for financial assistance for students or for center research.

(20 U.S.C. 511(a))

§ 146.17 Multiyear projects.

(a) The Commissioner may require that institutions applying for assistance under this subpart project their goals and activities over a three-year period. Multiyear approval is intended to offer projects a reasonable degree of stability over time and to facilitate additional long range planning.

(b) Approval of multiyear projects shall not commit the Federal government to provide financial assistance from appropriations not currently available and the funding of these projects after the initial year of support is subject to annual evidence of satisfactory performance and the availability of funds.

(20 U.S.C. 511(a)).

Subpart C—Graduate and Undergraduate International Studies Programs

§ 146.21 Scope.

The Commissioner is authorized to award grants to and contracts with institutions of higher education or consortia of such institutions to pay part of the costs of establishing and operating graduate and undergraduate international studies programs. Such programs will focus on the development of international components in course offerings and new methods for teaching international studies.

(20 U.S.C. 511(a))

§ 146.22 Graduate international studies programs: activities.

(a) The Commissioner may award grants to and contracts with institutions of higher education conferring post-baccalaureate degrees or to consortia of such institutions to assist in the initiation and development of (1) international components for existing problem- or topic-oriented courses of study or (2) instruction on a problem or topic of contemporary concern to an existing international studies program. The resulting program must provide instruction related to more than one of the world regions listed in § 146.11(b) and shall provide course offerings of a comparative or interdisciplinary nature that will strengthen linkages among disciplines and among various international studies programs and professional schools. Such programs will bring an interdisciplinary and comparative focus to problems, issues, or topics of mutual concern among nations.

(b) Institutions must make foreign language training available to students enrolled in programs developed under this subpart.

(c) In order to receive funds, the institution must assure that the activities initiated under this subpart will be continued after Federal support has been terminated.

(d) Program activities must be carried out within the United States and principally on the campus (or campuses) of the institution(s) involved. Program activities may take place throughout the calendar year during both the summer and the academic year; however, such activities may not be carried out exclusively in the summer.

(20 U.S.C. 511(a))

§ 146.23 Undergraduate international studies programs: activities.

(a) The Commissioner may award grants to and contracts with institutions of higher education or to consortia of such institutions, to assist them in providing an effective international perspective to the undergraduate general education program, particularly in the first two years of postsecondary study. Such programs shall provide instruction in more than one of the world areas listed in § 146.11(b).

(b) Institutions shall make foreign language training available to students enrolled in programs developed under this subpart.

(c) In order to receive funds, the institution must assure that the activities initiated under this subpart will be continued after Federal support has been terminated.

(d) Program activities must be carried out within the United States and principally on the campus (or campuses) of the institution(s) involved. Program activities may take place throughout the calendar year during both the summer and the academic year; however, such activities may not be carried out exclusively in the summer.

(20 U.S.C. 511(a))

§ 146.24 Criteria for selection of graduate and undergraduate international studies programs.

(a) In addition to evaluation on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b), the Commissioner will further evaluate applications for Federal support for graduate and undergraduate international studies programs in accordance with the following criteria:

(1) The international nature, contemporary relevance, and interdisciplinary and comparative dimensions of the program;

(2) The extent to which provision is made for evaluation of the effect of the program on those receiving training;

(3) The institution's capability to provide foreign language study;

(4) The commitment of the institution to the establishment and operation of the program as evidenced by maximum use of available resources (including institutional financial support);

(5) The reasonableness of the allocation of Federal funds among program activities; and

(6) The extent to which a clearly improved educational experience will be available at the institution for students within two years and the caliber of program that will be continued after Federal support is withdrawn.

(b) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those listed in § 100a.26(b), equally in evaluating an application. An applicant may receive as much as five points or as low as zero points under each criterion.

(20 U.S.C. 511(a))

§ 146.25 Applications.

(a) Applicants for funds under this subpart shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall describe the activities to be undertaken and shall contain sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria established in § 146.24.

(b) Applications from a consortium of institutions of higher education shall designate one of the member institutions as the grantee institution.

(20 U.S.C. 511(a))

§ 146.26 Allowable costs.

(a) Funds awarded under this subpart may be used to pay for those costs reasonably related to the operation of a program.

(b) Funds awarded under this subpart may not be used to pay for financial assistance for students or for program research and dissemination activities.

(20 U.S.C. 511(a))

§ 146.27 Multiyear projects.

(a) The Commissioner may require that institutions applying for assistance under this subpart project their goals and activities over a two year period except that a consortium of institutions may be required to project their goals and activities over a three year period. Multiyear approval is intended to offer projects a reasonable degree of stability over time and to facilitate additional long range planning.

(b) The Commissioner anticipates that grants and contracts of up to $45,000 per year may be awarded under this subpart. Approval of projects for more than one year does not commit the Federal government to provide financial assistance from appropriations not currently available and the funding of these projects after the initial year of support is subject to annual evidence of satisfactory performance and the availability of funds.

(20 U.S.C. 511(a)).

Subpart D—Foreign Language and Area Studies Fellowships

§ 146.31 Fellowship authorization.

(a) Foreign language and area studies fellowships may be awarded through eligible institutions of higher education to graduate students, including graduate students seeking professional degrees, who are undergoing advanced training in modern foreign languages, in related area studies or in international studies at any center as defined in § 146.2 (c), or in any program funded under Subpart C of this part, if such students provide reasonable assurance that they will, upon completion of their training, be available for teaching service in an institution of higher education, an elementary or secondary school, or for such other service of a public nature as defined in § 146.35(b).

(b) For purposes of this subpart an "eligible institution" means an institution of higher education operating a center or conducting a program authorized under Subpart C of this part.

(20 U.S.C. 511(b)).

§ 146.32 Allocation of fellowships among institutions.

In order to insure that the students who are selected to receive fellowships under this subpart shall receive training in programs and centers of the highest quality, the Commissioner requests applications from eligible institutions for quotas of fellowships. Such applications are reviewed on the basis of the criteria set forth in § 146.33 and quotas of fellowships will be allocated to institutions whose applications are selected in accordance with such criteria.

(20 U.S.C. 511(b)).

§ 146.33 Criteria for determination of institutional fellowship quotas.

In addition to evaluation on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b), the Commissioner will evaluate applications for quotas of foreign language and area studies fellowships from institutions of higher education in accordance with the following criteria:

(a) (1) The extent to which an institution which is applying for a quota of fellowships in African studies includes as part of its language and area studies program such disciplines as economics, history, humanities (art, drama, music, philosophy, religion), sociology, and languages other than Swahili;

(2) The extent to which an institution which is applying for a quota of fellowships in East Asian studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, sociology, and humanities (art, drama, music, philosophy, religion);

(3) The extent to which an institution which is applying for a quota of fellowships in East European Studies includes as a part of its language and area studies program such disciplines as anthropology, geography, humanities (art, drama, music, philosophy, religion); sociology, and languages other than Russian;

(4) The extent to which an institution which is applying for a quota of fellowships in Latin American studies includes as part of its language and area studies program such disciplines as humanities (art, drama, music, philosophy, religion); sociology, Portuguese, and Amerindian languages;

(5) The extent to which an institution which is applying for a quota of fellowships in Middle Eastern studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, humanities (art, drama, music, philosophy, religion); political science, sociology, and languages other than Hebrew;

(6) The extent to which an institution which is applying for a quota of fellowships in South Asian studies includes as part of its language and area studies program such disciplines as anthropology, humanities (art, drama, music, philosophy, religion), linguistics, literature, sociology, and geography;

(7) The extent to which an institution which is applying for a quota of fellowships in Southeast Asian studies includes as part of its language and area studies program such disciplines as economics, history, humanities (art, drama, music, philosophy, religion), linguistics, literature, and sociology; and

(8) The extent to which an institution which is applying for a quota of fellowships in Western European studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, philosophy and religion, political economy, sociology, and languages other than French, German, Italian, or Spanish;

(b) The quality of the institution's existing foreign language and area studies program for the area for which a quota of fellowships is being requested as evidenced by course offerings, faculty, and library holdings;

(c) The degree to which the center or the program of the institution has provided for intra-institutional cooperation with other foreign language and area programs and the nature and extent of coordination with the institution's professional schools and other special university programs;

(d) The degree of institutional commitment to the development of its foreign language and area studies program or center as evidenced by faculty appointments, university scholarships and teaching assistantships, funding of library acquisitions, and continuing support from the institution's general funds;

(e) The degree requirements of the institution's foreign language and area studies center or program and whether proficiency in one or more foreign languages is required;

(f) The extent to which the institution's foreign language and area studies center or program provides extracurricular activities which enhance the student's foreign language proficiency and knowledge of the world area he is studying; and

(g) The extent to which the institution's center or program includes in its offerings professional training such as business, law, journalism or education, and the quality of such offerings.

(h) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those listed in § 100a.26(b), equally in evaluation an application. An applicant may receive as much as five points or as low as zero points under each criterion.

(i) Lowest priority will be given to applications for fellowships from centers or programs focusing on France, Germany, Italy, and Spain.

(20 U.S.C. 511(b)).

§ 146.34 Institutional applications.

Applicants for quotas of fellowships under this subpart shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall contain sufficient information to enable the Commissioner to evaluate the applications on the basis of the criteria in § 146.33.

(20 U.S.C. 511(b)).

§ 146.35 Student eligibility.

(a) *General.* To be eligible to receive a fellowship under this subpart a person shall:

(1) Be a citizen or national of the United States or in the United States for other than a temporary purpose with the intent to become a permanent resident thereof;

(2) Provide reasonable assurance that on completion of training he will (i) be available for teaching in an institution of higher education or in an elementary or secondary school or (ii) be available for other service of a public nature, as defined in paragraph (b) of this section;

(3) Subscribe to the oath and supply the information required in § 146.39;

(4) Have earned a baccalaureate or comparable degree before the fellowship begins;

(5) Be accepted for graduate level training in foreign languages and appropriately related area studies in a center or program with a quota of fellowships;

(6) Agree to pursue full-time study in accordance with his university's requirement during the entire award period, except as provided in § 146.38.

(b) *Other service of a public nature.* "Other service of a public nature" means employment with Federal, State or local

governments, international organizations in which the United States participates, or nonprofit, nonsectarian organizations the activities of which contribute significantly to the conduct of United States foreign relations, or such other employment that will contribute to the Nation's cultural, educational, or scientific understanding of other countries.

(20 U.S.C. 511(b)).

§ 146.36 Application and selection of fellows.

(a) (1) *Application.* Applications for fellowships under this subpart shall be submitted to an institution which has received a quota of fellowships and shall be submitted to that institution before the closing date for such applications established by that institution. Such applications shall contain sufficient information to enable the applicant to be evaluated in accordance with the selection criteria set forth in paragraph (b) of this section, but shall in any event include the applicant's general academic record, career goal, educational background, language background and self evaluation of language competence, employment history, and proposed study program.

(2) In addition to the requirements set forth in paragraph (a) (1) of this section, if an individual applies for a fellowship with the intent of using that fellowship to support Ph.D. dissertation research in the United States, he shall also provide a brief description of his project, including

(i) The title of the project and signature of his graduate advisor;

(ii) The project statement of purpose;

(iii) A description of the precise topic to be investigated;

(iv) A description of methods by which research goals are to be attained;

(v) A statement as to the use of the relevant foreign language as a major research tool; and

(vi) A description of proposed travel within the United States considered to be research-related.

(b) *Selection.* The Commissioner shall select fellows and alternates from nominees submitted by institutions receiving quotas of fellowships for particular world areas. The Commissioner shall select, and the institutions shall nominate, fellows and alternates on the basis of the following criteria:

(1) A high level of academic ability as evidenced by such indices as grade point average, class ranking, or such other measures as the institutions may choose to use;

(2) Whether the applicant will major in an area of the world listed in § 146.33 (a);

(3) Whether the applicant's study program includes those disciplines listed in § 146.33(a) for the language and area to be studied;

(4) The extent to which the applicant's study plan includes appropriate foreign language training through formal study;

(5) For a fellowship in Japanese or Chinese, the extent to which at least 6 semester hours (9 quarter hours) or their equivalent in either of those languages has been successfully completed or equivalent proficiency in either language has been achieved;

(6) For a fellowship in Russian, the extent to which at least 12 semester hours (18 quarter hours) or their equivalent in that language have been successfully completed or equivalent proficiency in that language has been achieved;

(7) For a fellowship in Latin American Spanish, the extent to which at least 18 semester hours (27 quarter hours) or their equivalent in that language have been successfully completed or equivalent proficiency in that language has been achieved; and

(8) For a fellowship in any of the other languages, the extent to which documented competency in the language for which the fellowship is sought has been acquired.

(9) Lowest priority shall be given to a nominee who does not intend to pursue foreign language training or who is a native speaker of the language for which an award is sought.

(20 U.S.C. 511(b))

§ 146.37 Duration, amount, and payment of fellowships.

(a) *Duration.* Fellowships under this subpart will be awarded for one academic year and may not be revoked without the approval of the Commissioner nor may they be postponed to an academic year subsequent to that specified in the award. No applicant may receive more than a cumulative total of 48 months fellowship support (including the time period of the grant applied for) under Title VI of the National Defense Education Act and section 102(b) (6) of the Mutual Educational and Cultural Exchange Act (Pub. L. 87-256—Fulbright-Hays Act). Of the 48 months maximum, support for dissertation research is limited to either (1) 12 months overseas under Fulbright-Hays and 9 months in the United States under Title VI for dissertation completion or (2) a maximum of 18 months in the United States for dissertation research.

(b) *Amount.* Each individual selected by the Commissioner for a fellowship will receive the cost of tuition and fees, and a maintenance allowance in the amount of $2,925.00 per academic year.

(c) If a fellow is enrolled in an established advanced language program overseas, set up by an American institution of higher education and approved by the Commissioner for purposes of this subpart, tuition charges shall reflect the tuition costs of the overseas program only; if required by university policy, a nominal fee for in absentia registration at the home institution may be included in the award.

(d) Payments shall be made in installments to cover a specific period of the academic year, and shall be paid as long as the fellow is enrolled and in good standing. In the event of overpayment or underpayment of award benefits, the student must notify his institution so that appropriate allowance adjustments can be made; however, all award increases are subject to the availability of funds. Overpayments may not be retained by the student.

(20 U.S.C. 511(b)).

§ 146.38 Employment.

A fellow may accept limited employment during the fellowship period, preferably in a job related to his field of study, provided that such employment does not prolong the time normally required to complete the fellow's course of study.

(20 U.S.C. 511(b)).

§ 146.39 Oath and criminal information.

(a) In conformity with 1001(f) of the National Defense Education Act, no funds under a fellowship or stipend may be paid to any individual unless such individual has subscribed to an oath or affirmation in the following form:

I do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic.

(b) No fellowship stipend shall be awarded to any individual unless such individual has provided the Commissioner with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining 16 years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of 30 days or more which may be pending against him at the time of his application for such stipend.

(20 U.S.C. 581(f)).

§ 146.40 Student responsibilities.

(a) The student shall submit to the Commissioner through the grantee institution, a report after each award period giving a full account of his accomplishments under the award and his future study or employment plans. No fellowship funds shall be released to a student who has not met the reporting requirements of a previous award.

(b) The student is responsible for informing the institution of any change in his study program, or academic status.

(20 U.S.C. 511(b)).

§ 146.41 Responsibilities of institutions receiving quotas of fellowships.

(a) Each institution of higher education receiving a quota of fellowships shall:

(1) Publicize its quota(s) of fellowships and its foreign language and area studies programs;

(2) Set a deadline for fellowship applications;

(3) Screen applications and recommend nominees;

(4) Notify applicants that, subject to final approval by the Commissioner, they have been recommended as a fellow or alternate;

(5) Issue to each approved fellow, after the term begins, the amount of funds to cover benefits under this subpart to which the fellow is entitled; and

(6) Notify the Commissioner of any change in the study program, or academic status of a fellow.

(b) If a fellowship is vacated during the academic year, the institution must obtain approval from the Commissioner prior to making a fellowship substitution from the alternates listed in the official grant agreement.

(20 U.S.C. 511(b))

Subpart E—Research and Studies

§ 146.51 Scope.

Under this subpart, the Commissioner is authorized to award grants and contracts for studies and surveys to determine the need for increased or improved instruction in modern foreign languages and other fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, to conduct research on more effective methods of teaching such languages and such fields, and to develop specialized materials for use in training students and teachers.

(20 U.S.C. 512)

§ 146.52 Eligible applicants.

Public and private agencies, organizations and institutions as well as individuals are eligible to receive grants and contracts under this subpart.

(20 U.S.C. 512)

§ 146.53 Applications.

(a) Applicants for support under this subpart shall file an application with the Commissioner before the closing date established annually by the Commissioner. Such applications shall describe the activities to be undertaken and shall contain sufficient information to enable the Commissioner to evaluate the applications on the basis of the criteria established in § 146.55.

(b) Requests for information shall be sent to the Division of International Education, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202.

(20 U.S.C. 512)

§ 146.54 Research activities.

Activities conducted under this subpart may include:

(a) Studies and surveys, including conferences, to assess the state of the art of foreign language and international studies instruction in the United States, to determine new emphases needed, to identify priority needs for specialized materials, and to define and analyze national trends through, for example, surveys of enrollments, degree requirements, and newly developing types of training programs;

(b) Research in teaching methodology (1) which applies linguistic theories and concepts of modern language pedagogy to projects that can thereby be expected to increase the understanding of second language acquisition and to improve language teaching, and (2) which applies modern teaching approaches to international studies;

(c) The preparation of specialized instructional materials, particularly for modern foreign languages which are not widely taught in the United States and for which there is only a limited commercial market; and for international studies concerned with the non-Western world.

(20 U.S.C. 512)

§ 146.55 Criteria for selection of research projects.

In addition to evaluation on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.-26(b), the Commissioner will evaluate applications in accordance with the following criteria:

(a) For research, studies, and surveys the criteria are—

(1) The extent to which the proposed activity may be expected to develop new knowledge significant to the purpose of section 602 of the Act.

(2) The extent to which problems, questions, or hypotheses to be dealt with are well formulated, and reflect adequate knowledge of other related research;

(3) The specificity of the statement of procedures to be followed, including sampling techniques, controls, data to be gathered, and statistical and other analyses to be done; and

(4) The adequacy of the proposed teaching, testing, and research methodology.

(b) For the development of instructional materials, the criteria are—

(1) The extent to which the proposed work may contribute significantly to strengthening international studies programs of educational institutions;

(2) The extent to which all existing related materials are cited or accounted for, including a critical commentary on their adequacy, in the justification of the proposal.

(3) The degree of specificity concerning the final form of the projected instructional materials.

(4) The degree to which the proposed contents and final form of the materials reflect an empirical knowledge of the organization for instruction and academic practices of those American institutions in which they will ultimately be used; and

(5) The extent to which provision has been made for pretesting the materials in the classroom and for revision before publication.

(c) The Commissioner will evaluate each criterion listed in paragraphs (a) and (b) of this section, including those listed in § 100a.26(b), equally. An applicant may receive as much as five points or as low as zero points under each criterion.

(20 U.S.C. 512)

APPENDIX—GUIDELINES

National Defense Education Act of 1958 as amended, Title VI Sections 601–603
Grants to Institutions of Higher Education for International Studies
Centers and Programs and Foreign Language and Area Studies Fellowships; Contracts and Grants for Research and Studies

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CHAPTER I—INTRODUCTION

PART 1—GUIDELINES

§ 1.1 *Scope of guidelines.*

(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to assistance under the National Defense Education Act, Title VI, Section 601-603. The legal requirements include the Act itself (20 U.S.C. 511–513) and the regulations (45 CFR 146). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 1441; 113 Congl Rec. 5936, 5939 (daily ed. May 23, 1967)); *United States v. Jefferson County Board of Education*, 372 F. 2d 836, 857 (1966))

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is Section 601(a) of the Act (20 U.S.C. 511(a)), and the guideline affects Section 146.12(d) of the regulation (45 CFR 146.12(d)), the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 511(a); 45 CFR 146.12 (d)). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

CHAPTER II—INTERNATIONAL STUDIES CENTERS

PART 1—PROGRAM OUTLINE

§ 1.1 *Core instructional activities.*

(a) The core instructional offerings of a center should encompass a variety of disciplines and options for professional training at the various degree levels. While center proposals for Federal funding may include summer intensive language programs, symposia, or workshops (inservice teacher training programs, for example), the major effort of a center should be focused on instruction during the regular academic year.

(20 U.S.C. 511(a); 45 CFR 146.12)

(b) Federal funds may be used to assist a wide variety of the center's instructional program: faculty salaries (including teaching asisstants and language informants), administrative salaries, library staff salaries, teaching materials (including library acquisitions), and faculty travel. Federal funds may also be used to develop further resources for the center: faculty development, revision of existing courses, development of new courses or seminars, hiring of new personnel, summer intensive langauge programs, and forging of new linkages with professional schools and other programs at the institution.

(20 U.S.C. 511(a); 45 CFR 146.16)

§ 1.2 *Educational outreach activities.*

(a) The educational outreach activities of a center may take a variety of forms, as appropriate to the center's purposes and resources and to needs and interests of such interested parties as other institutions of higher education, elementary and secondary educational agencies, business, and the community at large. Information about examples of outreach activities which have been undertaken by centers is available from the International Studies Branch, Division of International Education, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202. However, no list of past or present examples should be considered complete; centers are encouraged to be imaginative and to create appropriate categories of activities here as well as in their core instructional offerings. Many outreach activities may be part of the institution's normal program; nonetheless, where justified, they should be included in any application for Federal support if they are an integral part of the center's activities. Applicants should keep in mind that one of the criteria used in evaluating applications for centers is the extent to which the applicant is carrying out or will carry out such activities.

(20 U.S.C. 511(a); 45 CFR 146.13)

(b) Federal funds for outreach activities may be used for teaching and administrative salaries, faculty travel (for example, in organizing a workshop for teachers at any level of education), honoraria for visiting lectures, dissemination of information about center activities and resources, and collection of materials for loan or rental to other educational agencies. Further, with regard to such educational outreach activities, in view of the limited Federal funds available for all international studies needs, the use of such funds for meals or lodging of persons attending special workshops is discouraged.

(20 U.S.C. 511(a); 45 CFR 146.16)

CHAPTER III—GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

PART 1—PROGRAM OUTLINE

§ 1.1 *Graduate international studies programs.*

(a) Graduate international studies programs should focus on issues or problems of both contemporary and future importance involving more than one geographic region of the world, one of which could be North America.

(b) Examples of subjects on which graduate programs may be based are:

(1) International trade and business;
(2) Comparative environmental studies;
(3) The Atlantic Community; and
(4) Population growth and planning.

(c) While proposed programs for Federal funding may include summer symposia or workshops, the main efforts of the program should be focused on instruction during the regular academic year.

(d) Federal funds may be used to permit the recipient institution to develop or rework curricula, orient faculty, purchase library books and periodicals, or perhaps accelerate plans for the hiring of new people to round out existing staff resources.

(e) Proposed programs which have a mixed graduate/undergraduate character will be considered and should be submitted in the graduate category.

(f) Programs usually have a very limited administrative structure and are generally not officially designated academic units (such as centers).

(20 U.S.C. 511(a); 45 CFR 146.22, 146.24, and 146.26)

§ 1.2 *Undergraduate international studies programs.*

(a) Proposals for undergraduate international studies programs may focus on any of several approaches for strengthening the international dimensions of the general education portion of the instructional program at eligible institutions. Examples of some approaches are listed below, but are not intended to be all-inclusive, nor are these approaches in any way mutually exclusible:

(1) A broad, integrated approach to the contemporary world. Through this kind of approach, international dimensions might be introduced in an interdisciplinary, or multidisciplinary settings.

(2) The comparative approach to foreign area studies and world problems. Proposals may provide for development of programs which would move curricula from concern solely with American and Western European models to a context in which other cultures would be seriously studied also. Topical studies drawing on different disciplines and examining in different societies such phenomena as urbanization, man and his environment, violence and conflict resolution, and social change and economic development may provide further possibilities for developing a comparative perspective.

(3) The development of a broader view of the world through the arts, music, and drama. A program which focuses on the arts should be concerned as well with the larger cultural context.

(4) Transnational concerns, involving a wide range of topics and issues which transcend the boundaries of nation states. Such common super-state problems as environment, disease, food supply, conflict resolution, and social change may be useful ways to introduce international studies to the undergraduate curriculum.

(5) Intercultural communication. Two categories of special relevance for American education are (i) improvements in foreign language instruction and (ii) intercultural communication broadly speaking—interaction and development of mutual understanding, or "cultures speaking to cultures." A program with special attention to language instruction might encourage fresh approaches to the learning of both language itself and language as a "window" on foreign cultures(s), developing students' understanding of systems of verbal and non-verbal communication. Cross-cultural or inter-cultural training strives to develop in an individual an awareness of the impact of one's own culture and the culture of others on one's own attitudes, habits, behavior and perception in interaction with others, to increase appreciation of other cultures, and to enhance ability to affect behavior in interaction with persons of other cultures.

(b) While proposed programs for Federal funding may include summer symposia or workshops, the main efforts of the program should be focused on instruction during the regular academic year.

(c) Federal funds may be used to permit the recipient institution to develop or rework curricula, orient faculty, purchase library books and periodicals, or perhaps accelerate plans for the hiring of new people to round out existing staff resources.

(d) Programs usually have a very limited administrative structure and are generally not officially designated academic units (such as centers).

(20 U.S.C. 511(a); 45 CFR 146.23, 146.24, and 146.26)

CHAPTER IV—GUIDELINES FOR FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS

PART 1—ADMINISTRATIVE PROVISIONS

§ 1.1 *Formation of committees.*

(a) It is recommended that the initial step for an institution which intends to apply for allocations of fellowships for one or more language and area study center or program should be the appointment by the university administration of a committee responsible to the graduate dean (1) for the preparation of proposals and (2) for the nomination of candidates at institutions receiving an allocation of fellowships.

(b) It is suggested that the chairman of this committee be the dean of the graduate school or his designee and that the other members of the committee be faculty members in the departments and professional schools which participate in the language and area studies center or program.

§ 1.2 *Responsibilities of the committee and the committee chairman.*

(a) The committee should be responsible for reviewing applications and recommending candidates for fellowships.

(b) The committee chairman should be responsible for:

(1) Forwarding the forms, cards, and instructions to nominees;

(2) Advising applicants (including any who might be temporarily located abroad) of the importance of prompt mailing of all required forms;

(3) Instructing applicants to complete and return to him all forms;

(4) Forwarding to the Office of Education forms completed by the nominees. The committee chairman should retain for the institution's files one copy of the Biographical Data form containing personal background, language background, and educational information on the student.

(5) Forwarding to the Commissioner any requests for supplements;

(6) Completing, signing, and forwarding to the Commissioner (i) the List of Nominees/Alternates which contains the names of recommended fellowship candidates by language and world area; (ii) Institutional Summary of Fellowships which contains the number of nominees by world area; (iii) the List of Awardees and Benefits which contains the names of the actual fellowship holders and the total cost of benefits to be paid to them.

(20 U.S.C. 511(b)); 45 CFR 146.23-25 and 146.28).

§ 1.3 *Declination of award by principal candidate.*

(a) If a fellow declines an award before the beginning of the fall term, the committee may select from its list of approved alternates an eligible alternate to fill the vacancy thus created. The committee chairman should promptly request approval of the Commissioner, giving the name of the candidate who declined the award, the reason (if possible) for his declination, the name of the alternate selected to fill the vacancy, and the estimated cost of the award to the alternate.

(20 U.S.C. 511(b); 45 CFR 146.35).

§ 1.4 *Vacated fellowships.*

(a) If a student vacates a fellowship in the course of the academic year, the institution should seek approval of the Commissioner if it desires to use the balance of the fellowship for an approved alternate, beginning with the term following the one in which the original holder of the fellowship relinquished it.

(20 U.S.C. 511(b); 45 CFR 146.35).

§ 1.5 *Reallocating awards.*

(a) If more than one language and area studies center or program within an institution receives a quota of awards, the appropriate official of the institution may, with prior approval of the Commissioner, reallocate awards among these centers or programs in order to meet priorities set forth in 45 CFR 146.35 and changing program and student needs.

(20 U.S.C. 511(b); 45 CFR 146.35).

CHAPTER V—GUIDELINES FOR RESEARCH

PART 1—APPLICATIONS

§ 1.1 *Application procedures.*

(a) For the information of applicants, proposals and applications under this subpart should conform to the information requirements set forth in HEW procurement regulations (41 CFR 3-4.5202-1(b)).

(b) Additional information about proposals and applications is available from the Division of International Education. It is advisable to provide a brief project outline for preliminary discussion before submitting a formal application.

(20 U.S.C. 512; 45 CFR 146.53 and 41 CFR 3-4.5202(b))

PART 2—RESEARCH ACTIVITIES

§ 2.1 *Studies and surveys.*

Federal funds may be used to assist projects designed to assess the state of the art of foreign language, area, and other international studies in the United States, determine new emphases, identify needs and priorities for specialized materials, and define and analyze national trends, for example, through surveys of enrollments, degree requirements, or newly developing types of training programs. Assistance is available to support conferences only if the conference is primarily concerned with activities authorized by Title VI of the Act. Assistance to professional organizations to hold annual or periodic conventions which serve primarily organizational aims and which have been taking place without Federal Support thus far, cannot be justified.

(20 U.S.C. 512; 45 CFR 146.55)

§ 2.2 *Research in teaching methodology.*

(a) For foreign languages: Studies may be assisted for investigation of certain aspects of the processes of second-language acquisition, which can be expected to increase an understanding of such processess and thereby contribute to the development of more effective teaching approaches; and for experimental projects for applying modern concepts of foreign language teaching pedagogy and for testing their effectiveness in controlled situations. With the growing significance of foreign language competence as an integral part of education in fields other than language teaching, such as international economics, industry, law, tourism, and trade, projects exploring appropriate approaches to language training specifically for the professions will also be considered.

(b) For international studies: Studies and experimental projects may be assisted for development of more effective methods of teaching about foreign areas, intercultural communication, and other aspects of international education. Methodologies which might be explored, for example, could include interdisciplinary or team teaching, or other innovative curriculum approaches to international studies.

(20 U.S.C. 512; 45 CFR 146.55)

§ 2.3 *Preparation of specialized instructional materials.*

(a) For languages which are not widely taught in the United States and which are of little or no interest for commercial publication: Decisions about Federal assistance will be guided by the recommendations on priority needs resulting from national conferences (such as the Conference on the Uncommonly-taught Languages held in Columbia, Maryland, from September 29 to October 2, 1974; the report from this conference, *Material Development Needs in the Uncommonly-taught Language: Priorities for the Seventies*, is available from the Center for Applied Linguistics, 1611 North Kent Street, Arlington, Virginia 22209) and conferences of language specialists representing a geographic or linguistic world area. National languages, languages of major regional or cultural significance, and other languages for which instruction is not widely available in the United States will be given priority. North American Indian languages, Hawaiian, Somoan, Micronesian, and languages native to the United States and its territories, are not considered foreign languages in this context. Since research is supported only in modern foreign languages, languages nearing extinction, although of linguistic interest, will not be considered. Materials for the study of English as a foreign language do not fall within the purview of NDEA Title VI. French, German, Italian, and Spanish are considered commonly-taught languages requiring no Federal assistance for general materials development.

(b) For international studies, primarily concerned with the non-Western world: General reference works, specialized research tools, or basic materials in a given field of study or world area are assigned a higher priority than studies focusing on specific periods, phenomena, and personalities.

(20 U.S.C. 512; 45 CFR 146.55)

[FR Doc.77-14557 Filed 5-20-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-319]

PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Improvement of the Commission's Overall Financial Disclosure System

AGENCY: Federal Communications Commission.

ACTION: Corrected Order.

SUMMARY: This is an Order adopting an amendment of the criteria of position categories, and requiring incumbents to file statements of employment and financial interests. The action, taken with the agreement of the U.S. Civil Service Commission, increases the number of employees who must file such statements. The amendment was adopted pursuant to the Commission's policy of strengthening the standards of ethical conduct, and improving its overall financial disclosure system.

EFFECTIVE DATE: May 26, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Fred J. Goldsmith, Office of Executive Director (202-632-7143).

SUPPLEMENTARY INFORMATION:

Adopted: February 10, 1977.

Released: May 18, 1977.

Order. In the matter of amendment of Part 19 to improve the Commission's overall financial disclosure system.

1. These amendments to Part 19 of the Commission's Rules and Regulations are made pursuant to the Commission's policy of strengthening the standards of ethical conduct, and improving the Commission's overall financial disclosure system.

2. Because the amendment involves internal Commission personnel and management matters exclusively, compliance with the prior notice and effective date requirements of 5 U.S.C. 553 is unnecessary.

3. *Accordingly, it is ordered,* Effective May 26, 1977, pursuant to the authority contained in sections 4(i), 303(r) and 5(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), and 303(r), that § 19.735-403 of Part 19 of the FCC rules is hereby deleted, and the following inserted in lieu thereof:

§ 19.735-403 Employees required to submit statements.

Except as provided in § 19.735-404, statements of employment and financial interests shall be required from the following employees of the Commission:

(a) Employees who are Administrative Law Judges.

(b) Employees who are Members of the Review Board.

(c) All other employees who are in Grade GS-13 or above.

(d) Employees who are in Grade GS-11 or above and who are Heads or Supervisors or Assistant Heads or Supervisors of field offices.

(e) All purchasing agents.

(f) All employees serving as auditors or accountants, with the principal duty of auditing private enterprises.

(g) All employees, professional, administrative, and clerical, in the offices of the Commissioners.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1063, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14539 Filed 5-20-77;8:45 am]

[1] Commissioner Lee absent.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, 1138]

[Docket Nos. AO-231-A45, etc.]

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Extension of Time for Filing Briefs

7 CFR Parts	Marketing area	Docket Nos.
1071	Neosho Valley	AO-227-A34
1073	Wichita, Kans	AO-173-A35
1097	Memphis, Tenn	AO-219-A34-RO1
1102	Fort Smith, Ark	AO-237-A28-RO1
1104	Red River Valley	AO-298-A28
1106	Oklahoma Metropolitan	AO-210-A41
1108	Central Arkansas	AO-243-A32-RO1
1120	Lubbock-Plainview, Tex.	AO-328-A21
1126	Texas	AO-231-A45
1132	Texas Panhandle	AO-262-A30
1133	Rio Grande Valley	AO-335-A26

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing briefs.

SUMMARY: This notice extends the date for filing briefs on the hearing held April 5-8, 1977, at Irving, Texas, concerning a proposed base-excess plan in 11 Southwest markets. Interested parties requested the additional time to complete their analysis of the record.

DATE: Briefs now are due on or before June 1, 1977.

ADDRESS: Briefs (six copies) should be filed with the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricutural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4824).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of Hearing: Issued February 11, 1977, published February 14, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Notice is hereby given that the time for filing briefs, proposed findings, and conclusions on the record of the public hearing held April 5-8, 1977, at Irving, Texas, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas pursuant to the above listed notices is hereby extended to June 1, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C. on May 18, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-14552 Filed 5-20-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-EA-28]

PROPOSED ALTERATION OF CONTROL ZONE & TRANSITION

Aberdeen, Md.

Correction

In FR Doc. 77-13515, appearing at page 24067, in the issue for Thursday, May 12, 1977, make the following corrections:

1. In the fourth full paragraph, of the second column, on page 24067, reverse the quotation marks after the word insert.

2. In the sixth line of the fifth paragraph, in the same column and page, change the initials "OR", to read "VOR".

[14 CFR Part 71]

[Airspace Docket No. 77-SW-17]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Killeen, Texas, transition area to provide controlled airspace for aircraft utilizing the newly installed STARN RBN in the execution of an instrument approach procedure to Gray AAF.

DATES: Comments must be received by June 16, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G, § 71.181 (42 FR 440) of FAR Part 71, the description of the Killeen, Texas, transition area reflects the controlled airspace needed to conduct instrument approach procedures at Gray Army Air Field. The STARN Radio Beacon (RBN) has now been installed on the localizer course of the ILS to runway 15 at the Army Air Field where it serves a dual purpose of providing the compass locator at the ILS outer marker and an NDB approach capability to the runway. Alteration of the transition area is now required to provide controlled airspace for aircraft executing an ILS or NDB instrument approach to runway 15.

COMMENTS INVITED

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 by June 16, 1977, 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 change in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Air Traffic Division, and Robert L. Nelson, Office of the Regional Counsel, Southwest Region.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed below.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations as hereinafter set forth.

§ 71.181 [Amended]

In Subpart G, § 71.181 (42 FR 440), the Killeen, Texas, transition area is amended to read, in part, by deleting:

Within 3.5 miles each side of the 341° bearing from Gray RBN. (Latitude 31°07'18" N., Longitude 97°51'02" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN;" and substituting therefor: "within 3.5 miles each side of the 329°M, 337°T, bearing from STARN RBN (Latitude 31°10'03" N., Longitude 97°52'41" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on April 29, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-14473 Filed 5-20-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Proposed Adoption of Cooperative Agreement With Colorado: Comment Period Scheduled

AGENCY: Geological Survey, Interior.

ACTION: Proposed rule, comment period scheduled.

SUMMARY: This document proposes to adopt a Cooperative Agreement between the Department of the Interior, and the State of Colorado that will govern the procedures that will be used to administer and enforce surface mining reclamation standards in Colorado. Presently, both Colorado and the Department perform overlapping and duplicative functions which impose unnecessary costs on both the respective governments, and the regulated industry. The Agreement eliminates this duplication and overlap wherever possible.

DATES: Comments must be received by June 6, 1977.

ADDRESSES: Comment Address: Director, Geological Survey, National Center, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Robert Uram, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, Telephone No. 202-343-4803.

SUPPPLEMENTAL INFORMATION: On May 17, 1976, the Department of the Interior adopted new regulations to govern the management of federally owned coal resources. 41 FR 20252 (1976). Those regulations authorize the Department to enter into cooperative agreements with states in which Federal coal leases have been or will be issued for the purpose of avoiding duality in the administration and enforcement of surface coal mine reclamation operations. 30 CFR 211.75 (b).

The Secretary and the Governor of Colorado have completed the negotiation of a Cooperative Agreement under this authority. The Agreement provides that the State of Colorado will be principally responsible for the administration and enforcement of surface coal mine reclamation operations on Federal coal leases in Colorado.

The Department of the Interior surface mining regulations require a Federal coal lessee to conduct mining operations in a manner that ensures the effective reclamation of mined lands.

An operator must, in particular, meet all the performance standards in 30 CFR 211.40 (1976). The Department's regulations require this degree of protection to be maintained, and the Department cannot enter into a Cooperative Agreement which compromises the degree of environmental protection established under Federal laws and regulations. The proposed Cooperative Agreement maintains this degree of environmental protection.

The State of Colorado's reclamation regulations do not contain mandatory requirements that afford general protection of environmental quality and values at least as stringent as would occur under the exclusive application of Federal law. However, the State of Colorado has the authority to administer its reclamation laws in a manner that provides the same degree of environmental protection as required by Federal law. The proposed Cooperative Agreement commits the State of Colorado to this degree of environmental protection on Federal coal leases and requires the State of Colorado to ensure that "all mining plans approved under this Agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR 211." The proposed Agreement also requires that the procedures of the State are as effective as the procedures of the Department of the Interior to enforce the requirements of the mining plan. If the State of Colorado is unable to meet these assurances, the Department has the duty, under the proposed Agreement, to notify Colorado that it intends to cancel the Agreement. The Department of the Interior will require reports from the State of Colorado and will conduct inspections to determine whether the State of Colorado is complying with the assurances of the Agreement.

Article III, paragraph H of the Cooperative Agreement requires the State of Colorado to devote adequate funds to administer and enforce reclamation requirements on Federal coal leases in the State. It is the understanding of both the Secretary of the Interior and the Governor of Colorado that the Department of the Interior will provide funds to the State of Colorado under a separate procurement contract on a cost-of-service basis. The Department intends to reimburse the State of Colorado for services, such as certain types of inspections, that the State will be performing for the Federal Government. The language of Article III shall be construed in a manner consistent with this understanding.

In the regulations promulgated on May 17, 1976, the Department also established a procedure by which the Department could adopt the substantive, on the-ground standards of a State's reclamation law as the Federal standards for operations on Federal coal leases in the State, as long as the State's requirements afforded "general protection of environmental quality and values at least as stringent as would occur under exclusive application of (the Federal standards)." 30 CFR 211.75(a). In an advance notice of proposed rulemaking, the Department explained what steps it would take to determine whether it would adopt the requirements of a State's reclamation law. 41 FR 27993 (1976). This rulemaking takes no action under this section, and does not affect the requirement of 30 CFR 211.40, or the standards the Department of the Interior will use to approve a mining plan.

Four elements are central to a Cooperative Agreement for the administration and enforcement of surface coal mine reclamation standards: mine plans; inspections; enforcement provisions; and bonding requirements. The Department has reviewed Colorado's law, and believes that the State of Colorado is capable of administering and enforcing reclamation operation on Federal coal leases in Colorado in such a way that Federal interests are protected.

Although the proposed Agreement grants the State the principal authority for administering and enforcing reclamation operations, we note the following. First, the Federal Coal Leasing Amendments Act of 1975, Pub. L. 94-377, requires the Secretary to approve the mining plan of a Federal lessee. Article IV, section C states the Secretary's duty to review and approve mining plans independently from State review and ap-

proval. The Agreement does avoid the application of conflicting standards by allowing the submission of one mining plan to the State and the Department.

Second, the Department retains its authority to establish the amount of the performance bond to be imposed. Article VII, section A avoids the imposition of double bonds by providing that the Department's bond requirement, if higher than the State's will only be for the amount of the difference between the two amounts.

The proposal contains chiefly the text of the Cooperative Agreement, but it also contains proposed technical changes in 30 CFR 211.10, 211.74, and 211.77 to conform those rules to the fact that the Cooperative Agreement, if adopted, will contain the requirements of a Federal lessee's mining plan in Colorado.

This proposed rulemaking does not explicitly amend 43 CFR Subpart 3041, but the Department wishes to state that the enforcement and administration provisions of that Subpart will be administered consistently with the changes in 30 CFR Part 211 proposed here.

COMMENT PERIOD

Final Cooperative Agreements have also been signed with Wyoming (effective February 1, 1977) and New Mexico, Utah, and North Dakota (all effective May 1, 1977). In these rulemaking proceedings, the Department set a 30-day comment period. The Department has concluded that it is both unnecessary and contrary to the public interest to have a 30-day comment period on this proposal. A shorter comment period is allowed.

This rulemaking proceeding is extremely similar to the one previously completely for Wyoming, Utah, New Mexico, and North Dakota. The public has had the opportunity to comment on the concept of this type of Cooperative Agreement in those proceedings, in addition to the opportunity to comment on 30 CFR 211.75(b) prior to its adoption last May. The previous agreements failed to generate significant comments. This Agreement does not significantly deviate from those prior actions. A full 30-day comment period is unnecessary, because the public has had repeated opportunities to comment on this type of proposal.

In addition, the 30-day comment period is contrary to the public interest because it may extend this rulemaking proceeding past the date of enactment of new federal surface mining legislation. The Department has supported the enactment of strong surface mining legislation, and in particular has offered amendments to that legislation to ensure that Federal-State cooperation in regulating reclamation of Federal lands would be encouraged. On April 29, 1977, the House passed H.R. 2, its version of the surface mining legislation. Senate consideration of similar legislation is also well-advanced, and final legislation could be passed soon. It is important to complete this rulemaking before the legislation is enacted so that Colorado's regulatory program will be able to receive the full benefits of the new legislation. Section 523 of H.R. 2, for example, recognizes the validity of Cooperative Agreements (with appropriate modifications) to regulate coal surface mining on Federal lands "existing on the date of enactment of this Act." H.R. 2 permits these Agreements to remain in effect prior to approval of a state program under the bill. In the absence of a Cooperative Agreement, H.R. 2 would temporarily displace Colorado from regulating Federal lands after the Department adopted a Federal lands program, and prior to the approval of a state program. Since Colorado has an excellent program, the public interest would be enhanced if this temporary displacement could be prevented. Although neither the date of enactment, nor the particular provisions of surface mining legislation is certain, it is possible a bill containing provisions similar to section 523 in H.R. 2 will be enacted in the near future. Consequently, a shortened comment period is needed to help ensure that this rulemaking can be completed before the legislation has been enacted. Comments are requested by June 6, 1977.

The environmental impacts of this proposed action are discussed in the final Environmental Impact Statement, Surface Management of Coal Resources (43 CFR Subpart 3041) and Coal Mining Operating Regulations (30 CFR Part 211) (1976). NEPA does not require, and the Department has not prepared, a separate impact statement for this action.

Dated: May 18, 1977.

CECIL D. ANDRUS,
Secretary.

1. Accordingly, the Department proposes to amend 30 CFR § 211.10 by adding a new paragraph (e) (6) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * *

(6) *Colorado.* A Federal coal lessee in the State of Colorado who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) 34-32-112, C.R.S. (1973);

(ii) Colorado Mined Land Reclamation Board Rules and Regulations, Rule 2, section 2.1 (referred to as "Board Rule");

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan has been given to the State of Colorado and the Secretary.

2. The Department proposes to amend 30 CFR 211.74 by adding a new paragraph (g) (6) to read as follows:

§ 211.74 Variances.

* * * * *

(g) *States with § 211.75(b) agreements.* * * *

(6) *Colorado.* A Federal coal lessee in the State of Colorado shall request and receive variances from the State of Colorado and the Secretary under the provisions of 30 CFR 211.74.

3. The Department proposes to amend 30 CFR 211.77 by adding a new paragraph (f) to read as follows:

§ 211.77 States with cooperative agreements.

* * * * *

(f) *Colorado.* The administration and enforcement of reclamation requirements on federal coal leases in Colorado subject to this part shall be done according to the Cooperative Agreement between the State of Colorado and the Department of the Interior. The Cooperative Agreement is published at (date and page of publication of final rule, if adopted, to be inserted), and is available at appropriate offices of the Department of the Interior.

4. The State of Colorado and the Department of the Interior propose to enter into a Cooperative Agreement to designate the State of Colorado as the principal party to administer surface coal mine reclamation operations on Federal coal leases in Colorado to read as follows:

Cooperative agreement between the United States Department of the Interior and the State of Colorado. Under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and Section 307 of the Federal Land Policy and Management Act of 1976, and 30 CFR 211.75(b).

This agreement (referred to as the Cooperative Agreement) is made between the State of Colorado acting by and through Governor Richard D. Lamm (referred to as the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

ARTICLE I

PURPOSE

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of Colorado with respect to the administration and enforcement of coal surface mine reclamation requirements under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of Colorado to the extent possible, as the principal entity to enforce reclamation laws and regulations on Federal coal leases in Colorado.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the ____ day of _____, 19____, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The Governor affirms that the State of Colorado will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Colorado Department of Natural Resources

and the Colorado Mined Land Reclamation Board (referred to as the State Agency) are, and shall continue to be, the agencies responsible for administering this Cooperative Agreement on behalf of the Governor on Federal coal leases throughout the State.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement.

C. *State Reclamation Law.* The State Agency shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR part 211, and that the standards used to approve a mining plan of a Federal lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The existing procedures of the State of Colorado shall be, in the judgment of the Secretary, substantially as effective for the purpose of enforcing the reclamaiton requirements of 30 CFR part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State Agency will inspect all mines on Federal coal leases located in the State, in accordance with the minimum schedule in Article V.

F. *Enforcement.* The Governor affirms that the State Agency will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agencies will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State Agency will, subject to appropriations from the Colorado General Assembly, devote adequate funds for the administration and enforcement of reclamation requirements on Federal coal leases in the State.

I. *Reports and Records.* The State Agencies shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agencies shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulations, 30 CFR 211.10(c), and State laws and regulations require that the operator of lands leased, permitted or licensed for coal mining receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The State Agencies and the Secretary agree that a Federal coal lessee must submit a mining plan or permit application under both State and Federal law, which plan or permit must include, at a minimum, the following information: 1. The information required by:

(a) 34-32-112, C.R.S. (1973);

(b) Colorado Mined Land Reclamation Board Rules and Regulations, Rule 2, Section 2.1 (referred to as "Board Rule"); and

(c) 30 CFR 211.10(c).

2. A Statement certifying that a copy of the mining plan or permit application has been given to both the State Agency and the Secretary.

If either the State Agency or the Secretary requires the operator to submit additional information the operator shall submit the information to both the State Agency and the Secretary. The operator will request variances from the mining plan in accordance with 30 C.F.R. § 211.74, and shall file the request with the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan, permit, or request for an amendment or a variance from the plan or permit.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan or permit or any request for a variance from a plan as provided in 34-32-108 and 34-32-112. The State Agency shall notify the Secretary of its action pursuant to such provisions. The Secretary shall then independently review and take action on the mining plan or permit as required by 30 C.F.R. 211.10(d), or request for a variance as required by 30 C.F.R. 211.74, or a change to an approved mining plan or permit which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action and the State Agency shall reconsider the action if necessary to comply with this Cooperative Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by 34-32-121, C.R.S. (1973), and Board Rule 8, Section 8.1, as frequently as necessary but at least quarterly the operations area of all Federal Coal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved mining plans that affect the reclamation of mined lands. The State Agency shall also perform all inspections required under 30 CFR 211.41. Such inspections performed in accordance with 30 CFR 211.41 shall be considered in meeting the quarterly inspection requirement.

B. The State Agency will, subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under coal lease, permit or license, (2) the manner in which the operations are being conducted and (3) whether the operator is complying with applicable reclamation requirements. A copy of this report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Federal Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State. Inspections by the Secretary may be made in association with the regular inspection by the State Agency.

D. The Secretary may conduct inspections on Federal coal leases to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by 34-32-124, C.R.S. (1973), and Board Rule 8, Section 8.2.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State Agency shall take immediate action, as authorized by 34-32-124 (2), C.R.S. (1973).

C. The State Agency shall notify the Secretary of all violations of applicable laws regarding reclamation on Federal coal leases including violations of Federal laws and regulations or lease terms and of all actions taken under 34-32-124, and Board Rule 8, Section 8.2.

D. This section does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, but not State law, or from taking appropriate measures to remedy violations of a mining plan or other appropriate requirements.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII

SURETY OR BONDS

A. *Amount and Responsibility.* The State Agency may require Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit surety as provided in 34-32-117, C.R.S. (1973). The Secretary shall reduce the Federal bond required for reclamation purposes under 43 CFR 3041.3 and 30 CFR 211.3, by the amount of the surety required by the State Agency only if the release of all or any portion of the State Agency's surety is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the surety.

B. *Notification.* Prior to releasing the surety provided for in 34-32-117, C.R.S. (1973), for lands the surface on which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of Surety.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by 34-32-117, 34-32-118, C.R.S. (1973).

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Agency has failed to comply and shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Agency has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. The time period specified shall not be less than 30 days. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the Governor upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State Agency and affording the State Agency an opportunity for a hearing:

1. That the State Agency has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State Agency has failed to comply with any assurance given by the State Agency upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations or Colorado laws and regulations.

D. *Notice or Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where the State Agency will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall not be less than 30 days from the date of such notice, and the place of hearing shall be in the State.

4. The Secretary shall also publish a notice in the Federal Register containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State Agency may file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State Agency will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State Agency may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the Governor shall be entitled to obtain a copy of the transcript. The Governor shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, document, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State Agency, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the Governor of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of the intended withdrawal and shall afford the State Agency an opportunity to present evidence satisfactory to the Secretary that the State Agency has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State Agency to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State Agency for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the Governor and upon giving evidence satisfactory to the Secretary that the State Agency can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. And amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection. Upon acceptance by the Governor and the Secretary, the amendment shall be adopted after Federal rulemaking.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of Colorado may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the State Agency shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of the Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No employee of the State Agency responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decision-making, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates, or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses which are necessary to carry out the requirements of the Cooperative Agreement can be performed or determined or have access to such facilities.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The Governor and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of departments or divisions, or a change in the function or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The Governor and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards, pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the State of Colorado and the Secretary may have under the Mineral Leasing Act, the Constitution of the United States, or the Constitution or laws of the State of Colorado.

RICHARD D. LAMM,
Governor, State of Colorado.

MAY 12, 1977.

CECIL D. ANDRUS,
Secretary,
Department of the Interior.

[FR Doc.77-14522 Filed 5-20-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 718-7]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Proposed Revision of Reference Method 11

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes a revision to Reference Method 11, the method for determining the hydrogen sulfide content of fuel gas streams. EPA has found that interferences resulting from the presence of mercaptans in some petroleum refinery fuel gases can lead to erroneous results when using the current method. This proposed revision would eliminate the problem of mercaptan interferences and insure the accuracy of test methods.

DATES: Comments must be received on or before July 22, 1977.

ADDRESS: Comments should be submitted in triplicate to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

All public comments received will be available for inspection and copying during normal business hours at EPA's Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (919-688-8146), extension 271.

SUPPLEMENTARY INFORMATION: On March 8, 1974, the Environmental Protection Agency (EPA) promulgated standards of performance limiting emissions of sulfur dioxide from new, modified, and reconstructed fuel gas combustion devices within petroleum refineries. The standard limits the hydrogen sulfide content of fuel gas fired in combustion devices to 230 mg/dscm. Reference Method 11 was promulgated with the standard as the performance test method for measuring H_2S in the fuel gases. After promulgation, EPA discovered that interference resulting from the presence of mercaptans in some refinery fuel gases can lead to erroneous results. A study found that the cadmium hydroxide/cadmium sulfate absorbing solution specified in Method 11 was an efficient collector of mercaptans as well as hydrogen sulfide, thus causing a serious interference when mercaptans are present in significant concentrations. Studies were also made examining other substances often present in refinery fuel gases. No measurable interference resulted from the presence of carbon oxysulfide, dimethyl sulfoxide, ethylene, or thiophene. Acetaldehyde and acetone were observed to interfere at the 2,400 and 48,000 mg/m³ level, respectively.

As a result of this study, revisions to Method 11 are being proposed. The major change would substitute a new absorbing solution that is essentially free from mercaptan interference. New sections would also be added describing the range and sensitivity, interferences, and precision and accuracy of the revised Method 11. Although mercaptans are seldom present in fuel gases in sufficient quantities to significantly affect the test results, the proposed revision would ensure the accuracy of results in cases where high levels are present.

This revision of Method 11 does not affect the stringency of the standard for fuel gas combustion devices within petroleum refineries. The source test emission data which served as the basis for the standard were gathered at sources with negligible concentration levels of mercaptans in the fuel gas.

(Secs. 111, 114, 301(a), Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857c-9, and 1857g(a)).)

ECONOMIC IMPACT ANALYSIS: The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11021 and 11949 and OMB Circular A-107.

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 60 of Chapter I of Title 40 of the Code of Federal Regulations by revising Method 11 of Appendix A—Reference Methods as follows:

APPENDIX A—REFERENCE METHODS

* * * * *

METHOD 11—DETERMINATION OF HYDROGEN SULFIDE CONTENT OF FUEL GAS STREAMS AT STATIONARY SOURCES

1. *Principle and applicability.*—1.1 *Principle.* Hydrogen sulfide (H_2S) is collected from a source in a series of midget impingers and absorbed in ph. 3.0 cadmium sulfate ($CdSO_4$) solution to form cadmium sulfide (CdS). The latter compound is then measured iodometrically. An impinger containing hydrogen peroxide is included to remove SO_2 as an interfering species.

1.2. *Applicability.* This method is applicable for the determination of the hydrogen sulfide content of fuel gas streams at stationary sources.

2. *Range and sensitivity.* The limit of detection is approximately 8 mg/m³ (6 ppm). The maximum of the range is 740 mg/m³ (520 ppm).

3. *Interferences.* Any compound that reduces iodine or oxidizes iodide ion will interfere in this procedure, provided it is collected in the cadmium sulfate impingers. Sulfur dioxide in concentrations of up to 2,600 mg/m³ is eliminated by the hydrogen peroxide solution. Thiols precipitate with hydrogen sulfide. In the absence of H_2S, only co-traces of thiols are collected. When methane- and ethane-thiols at a total level of 300 mg/m³ are present in addition to H_2S, the results vary from 2 percent low at an H_2S concentration of 400 mg/m³ to 14 percent high at an H_2S concentration of 100 mg/m³. Carbon oxysulfide of 20 percent does not interfere. Certain carbonyl-containing compounds react with iodine and produce recurring end points. However, acetaldehyde and acetone at concentrations of 1 and 3 percent, respectively, do not interfere.

Entrained hydrogen peroxide produces a negative interference equivalent to 100 percent of that of an equimolar quantity of hydrogen sulfide. Avoid the ejection of hydrogen peroxide into the cadmium sulfate impingers.

4. *Precision and accuracy.* Collaborative testing has shown the within-laboratory coefficient of variation to be 2.2 percent and the overall coefficient of variation to be 5.0 percent. The method bias was shown to be −4.8 percent when only H_2S was present. In the presence of the interferences cited in Section 3, the bias was positive at low H_2S concentrations and negative at higher concentrations. At 230 mg H_2S/m³, the level of the compliance standard, the bias was +2.7 percent. Thiols had no effect on the precision.

5.1 *Apparatus.*

5.1.1 Sampling line. Six to 7 mm (¼ in.) Teflon[1] tubing to connect sampling train to sampling valve. Depending on sampling stream pressure, a pressure-reduction regulator may be required just prior to the Teflon sampling line.

If significant amounts of water or amine are present in the sample stream, a corrosion-resistant cold trap should be used immediately after the sample tap. The trap should not be operated below 0°C to avoid condensation of C_3 or C_4 hydrocarbons.

5.1.2 Impingers. Five midget impingers, each with 30 ml capacity. The internal diameter of the impinger tip must be 1.00 mm ±0.05 mm. The impinger tip must be positioned 4 to 6 mm from the bottom of the impinger.

5.1.3 Glass or Teflon connecting tubing for the impingers.

5.1.4 Ice bath container—To maintain absorbing solution at a low temperature.

5.1.5 Silica gel drying tube. To protect pump and dry gas meter.

5.1.6 Sampling valve. Needle valve or equivalent to adjust gas flow rate. Stainless steel or other corrosion-resistant material.

5.1.7 Dry gas meter. Sufficiently accurate to measure sample volume to within 1 percent and calibrated with a wet test meter over the range of flow rates used in sampling. Gas volume for one dial revolution must not be more than 10 liters. The gas meter should have a gas petcock or equivalent on the outlet connector which can be closed during the leak test.

5.1.8 Flow meter. Rotameter or equivalent, to measure 0.5 to 2.0 liters/min (1 to 4 CFH) flow rate.

5.1.9 Graduated cylinder. 25 ml size.

5.1.10 Barometer. To measure atmospheric pressure to within ±2.5 mm (0.1 in.) Hg.

5.1.11 U-Tube manometer. 0-30 cm water column. For leak check procedure.

5.1.12 Rubber squeeze bulb. To pressurize train for leak check.

5.1.13 Tee, pinchclamp, and connecting tubing. For leak check.

5.1.14 Vacuum pump. Required for air purge.

5.1.15 Needle valve or orifice. To set air purge flow to 1 liter/min.

5.1.16 Tube packed with active carbon. To filter air during purge.

5.1.17 Volumetric flask. One 1,000 ml.

5.1.18 Volumetric pipette. One 15 ml.

5.2 Sample Recovery.

[1] Mention of trade names of specific products does not constitute endorsement by the Environmental Protection Agency.

5.2.1 Sample container. Iodine flask, glass-stoppered; 500 ml size.

5.2.2 Pipette. 50 ml volumetric type.

5.2.3 Graduated cylinders. One each 25 and 250 ml.

5.2.4 Flasks. 125 ml, Erlenmeyer.

5.2.5 Wash bottle.

5.2.6 Volumetric flasks. Three 1,000 ml.

5.3 Analysis.

5.3.1 Flask. 500 ml glass-stoppered iodine flask.

5.3.2 Burette. 50 ml.

5.3.3 Flask. 125 ml, Erlenmeyer.

5.3.4 Pipettes, volumetric. One 25 ml; two each 50 and 100 ml.

5.3.5 Volumetric flasks. One 1,000 ml; two 500 ml.

5.3.6 Graduated cylinders. One each 10 and 100 ml.

6. *Reagents.* Unless otherwise indicated, it is intended that all reagents conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Otherwise, use best available grade.

6.1 Sampling.

6.1.1 Cadmium sulfate absorbing solution. Dissolve 41.0 g of $3CdSO_4 \cdot 8H_2O$ and 15.0 ml of 0.1 M sulfuric acid in a 1-liter volumetric flask that contains approximately ¾ liter of deionized distilled water. Dilute to volume with deionized water. Mix thoroughly. pH should be 3.0±0.1. Add 10 drops of Dow-Corning Antifoam B [1]. Shake well before use. If Antifoam B is not used, the alternate acidified iodine extraction procedure must be used.

6.1.2 Hydrogen perioxide, 3 percent. Dilute 30 percent hydrogen peroxide to 3 percent as needed. Prepare fresh daily.

6.1.3 Water. Deionized, distilled, to conform to ASTM specifications D1193–72, Type 3.

6.2 Sample recovery.

6.2.1 Tydrochloric acid solution (HCl), 3M. Add 240 ml of concentrated HCl (specific gravity 1.19) to 500 ml of deionized, distilled water in a 1-liter volumetric flask. Dilute to 1 liter with deionized water. Mix thoroughly.

6.2.2 Iodine solution, 0.1 N. Dissolve 24 g of potassium iodide (KI) in 30 ml of deionized, distilled water. Add 12.7 g of resublimed idodine (I_2) to the potassium iodide solution. Shake the mixture until the iodine is completely dissolved. If possible, let the solution stand overnight in the dark. Slowly dilute the solution to 1 liter with deionized, distilled water, with swirling. Filter the solution if it is cloudy. Store solution in a brown-glass reagent bottle.

6.2.3 Standard iodine solution, 0.01 N. Pipette 100.0 ml of the 0.1 N iodine solution into a 1 liter volumetric flask and dilute to volume with deionized, distilled water. Standardize daily as in Section 8.1. This solution must be protected from light. Reagent bottles and flasks must be kept tightly stoppered.

6.3 Analysis.

6.3.1 Sodium thiosulfate solution, standard 0.1 N. Dissolve 24.8 g of sodium thiosulfate penthahydrate ($Na_2SO_2O_25H_2O$) or 15.8 g of anhydrous sodium thiosulfate ($Na_2S_2O_3$), in 1 liter of deionized, distilled water and add 0.01 g of anydrous sodium carbonate (Na_2CO_3) and 0.4 ml of chloroform ($CHCl_3$) to stabilize. Mix thoroughly by shaking or by aerating with nitrogen for approximately 15 min and store in a glass-stoppered, reagent bottle. Standardize as in Section 8.2.

6.3.2 Sodium thiosulfate solution, standard 0.01 N. Pipette 50.0 ml of the standard 0.1 N thiosulfate solution into a volumetric flask and dilute to 500 ml with distilled water.

6.3.3 Starch indicator solution. Suspend 10 g of soluble starch in 100 ml of deionized, distilled water and add 15 g of potassium hydroxide (KOH) pellets. Stir until dissolved, dilute with 900 ml of deionized distilled water and let stand for 1 hour. Neutralize the alkali with concentrated hydrochloric acid, using an indicator paper similar to Alkacid test ribbon, then add 2 ml of glacial acetic acid as a preservative.

NOTE.—Test starch indicator solution for decomposition by titrating with 0.01 N iodine solution 4 ml of starch solution in 200 ml of distilled water that contains 1 g potassium iodide. If more than 4 drops of the 0.01 N iodine solution are required to obtain the blue color, a fresh solution must be prepared.

7. *Procedure.* 7.1 Sampling.

7.1.1 Assemble the sampling train as shown in Figure 11–1, connecting the five midget impingers in series. Place 15 ml of 3 percent hydrogen peroxide solution in the first impinger. Leave the second impinger empty. Place 15 ml of the cadmium sulfate absorbing solution in the third, fourth, and fifth impingers. Place the impinger assembly in an ice bath container and place crushed ice around the impingers. Add more ice during the run, if needed.

7.1.2 Connect the rubber bulb and manometer to first impinger, as shown in Figure 11–1. Close the petcock on the dry gas meter outlet. Pressurize the train to 30-cm water pressure with the bulb and close off tubing connected to rubber bulb. Train must hold a 30-cm water pressure with not more than a 1 cm drop in pressure in a 1-min interval. Stopcock grease is acceptable for sealing ground glass joints.

7.1.3 Purge the connecting line between the sampling valve and the first impinger. Close valve and connect the sample line to the train. Open the petcock on the dry gas meter outlet. Record the initial reading on the dry gas meter.

7.1.4 Open the sampling valve and then adjust the valve to obtain a rate of approximately 1 liter/min. Maintain a constant flow rate during the test. Record the meter temperature.

7.1.5 Sample for at least 10 min. At the end of the sampling time, close the sampling valve and record the final volume and temperature readings.

7.1.6 Disconnect the impinger train from the sampling line. Connect the charcoal tube and the pump, as shown in Figure 11–1. Purge the train with clean ambient air for 15 min to ensure that all H_2S is removed from the hydrogen peroxide. For sample recovery, cap the open ends and remove to a clean area that is away from sources of heat. The area should be well lighted, but not exposed to direct sunlight.

7.2 Sample recovery.

7.2.1 Discard the contents of the hydrogen peroxide impinger. Carefully rinse the contents of the third, fourth, and fifth impingers into a 500 ml iodine flask.

NOTE 2.—The impingers normally have only a thin film of cadmium sulfide remaining after a water rinse. If Antifoam B was not used or if significant quantities of yellow cadmium sulfide remain in the impingers, the alternate recovery procedure must be used.

7.2.2 Pipette exactly 50 ml of 0.01 N iodine solution into a 125 ml Erlenmeyer flask. Add 10 ml of 3 M HCl to the solution. Quantitatively rinse the acidified iodine into the iodine flask. Stopper the flask immediately and shake briefly.

7.2.2 (Alternate). Extract the remaining cadmium sulfide from the third, fourth, and fifth impingers using the acidified iodine solution. Immediately after pouring the acidified iodine into an impinger, stopper it and

[1] Mention of trade names of specific products does not constitute endorsement by the Environmental Protection Agency.

shake for a few moments, then transfer the liquid to the iodine flask. Do not transfer any rinse portion from one impinger to another; transfer it directly to the iodine flask. Once the acidified iodine solution has been poured into any glassware containing cadmium sulfide, the container must be tightly stoppered at all times except when adding more solution, and this must be done as quickly and carefully as possible. After adding any acidified iodine solution to the iodine flask, allow a few minutes for absorption of the H_2S before adding any further rinses. Repeat the iodine extraction until all cadmium sulfide is removed from the impingers. Extract that part of the connecting glassware that contains visible cadmium sulfide.

Quantitively rinse all of the iodine from the impingers, connectors, and the beaker into the iodine flask using deionized, distilled water. Stopper the flask and shake briefly.

7.2.3 Allow to stand about 30 min. in the dark for absorption of the H_2S into the iodine, then complete the titration analysis as in Section 7.3.

NOTE 3.—Caution! Iodine evaporates from acidified iodine solutions. Samples to which acidified iodnie have been added may not be stored, but must be analyzed in the time schedule stated in Section 7.2.3.

7.2.4. Prepare a blank by adding 45 ml of cadmium sulfate absorbing solution to an iodine flask. Pipette exactly 50 ml of 0.01 iodine solution into a 125-ml Erlenmeyer flask. Add 10 ml of 3 M HCl. Follow the same impinger extracting and quantitative rinsing procedure carried out in sample analysis. Stopper the flask, shake briefly, let stand 30 min in the dark, and titrate with the samples.

NOTE 4.—The blank must be handled by exactly the same procedure as that used for the samples.

7.3 Analysis.

NOTE 5.—Titration analyses should be conducted at the sample-cleanup area in order to prevent loss of iodine from the sample. Titration should never be made in direct sunlight.

7.3.1 Using 0.01 N sodium thiosulfate solution, rapidly titrate samples in iodine flasks using gentle mixing, until solution is light yellow. Add 4 ml of starch indicator solution and continue titrating slowly until the blue color just disappears. Record V_t, the volume of sodium thiosulfate solution used (ml).

7.3.2 Titrate the blanks in the same manner as the samples. Run blanks each day until replicate values agree within 0.05 ml. Average the replicate titration values which agree within 0.05 ml.

8. *Calibration and standards.* 8.1 Standarize the 0.01 N iodine solution daily as follows: Pipette 25 ml of the iodine solution into a 125 ml Erlenmeyer flask. Add 2 ml of 3 M HCl. Titrate rapidly with standard 0.01 N thiosulfate solution until the solution is light yellow, using gentle mixing. Add four drops of starch indicator solution and continue titrating slowly until the blue color just disappears. Record V_t, the volume of thiosulfate solution used (ml). Repeat until replicate values agree within 0.05 ml. Average the replicate titration values which agree within 0.05 ml and calculate the exact normality of the iodine solution using Equation 9.1. Repeat the standardization daily.

8.2 Standardize the 0.1 N thiosulfate solution as follows: Oven-dry potassium dichromate ($K_2Cr_2O_7$) at 180 to 200°C. Weight to the nearest milligram, 2 g of potassium dichromate into a 500 ml volumetric flask, dissolve in deionized, distilled water and dilute to exactly 500 ml. In a 500 ml iodine flash, dissolve approximately 3 g of potassium iodide (KI) in 45 ml of deionized, distilled water, then add 10 ml of 3 M hydrochloric acid solution. Pipette 50 ml of the dichromate solution into this mixture. Gently swirl the solution once and allow it to stand in the dark for 5 min. Dilute the solution with 100 to 200 ml of deionized distilled water, washing down the sides of the flask with part of the water. Titrate with 0.1 N thiosulfate until the solution is light yellow. Add 4 ml of starch indicator and continue titrating slowly to a green end point. Record V_t, the volume of thiosulfate solution used (ml). Repeat until replicate analyses agree within 0.05 ml. Calculate the normality using Equation 9.2. Repeat the standardization each week.

9. *Calculations.* Carry out calculations retaining at least one extra decimal figure beyond that of the acquired data. Round off results only after the final calculation.

9.1 Normality of the Standard Iodine Solution.

$$N_I = \frac{N_I V_I}{V_I}$$

where

N_I=normality of iodine, g-eq/liter;
V_I=volume of iodine used, ml;
N_T=normality of sodium thiosulfate, g-eq/liter; and
V_T=volume of sodium thiosulfate used, ml.

9.2 Normality of the Standard Thiosulfate Solution.

$$N_T = 2.04 \frac{W}{V_T}$$

where

W=weight of $K_2CR_2O_7$ used, g;
V_T=volume of $Na_2S_2O_3$ used, ml;
N_T=normality of standard thiosulfate solution, g-eq liter; and
2.04=conversion factor.

$$= \frac{(6 \text{ eq } I_2/\text{mole } K_2Cr_2O_7)(1{,}000 \text{ ml/liter})}{(294.2 \text{ g } K_2Cr_2O_7/\text{mole})(10 \text{ aliquot factor})}$$

9.3 Dry Gas Volume. Correct the sample volume measured by the dry gas meter to standard conditions (20° C) and 760 mm Hg.

$$V_{m_{std}} = V_m \left(\frac{T_{std}}{T_m}\right)\left(\frac{P_{bar}}{P_{std}}\right)$$

where

$V_{m_{std}}$=volume at standard conditions of gas sample through the dry gas meter, standard liters;
V_m=volume of gas sample through the dry gas meter (meter conditions), liters;
T_{std}=absolute temperature at standard conditions, 293 K;
T_m=average dry gas meter temperature, °K;
P_{bar}=barometric pressure at the orifice meter, mm Hg; and
P_{std}=absolute pressure at standard conditions, 760 mm Hg.

9.4 Concentration of H_2S. Calculate the concentration of H_2S in the gas stream at standard conditions using equation:

$$C_{H_2S} = \frac{K[(V_I N_I - V_T N_T)\text{ sample} - (V_I N_I - V_T N_T)\text{ blank}]}{V_{m_{std}}}$$

where (metric units);

C_{H_2S}=concentration of H_2S at standard conditions, mg/dscm;
K=conversion factor=17.0×10^3

$$= \frac{(34.07 \text{ g/mole } H_2S)(1{,}000 \text{ liters/m}^3)(1{,}000 \text{ mg/g})}{(1{,}000 \text{ ml/liter})(2H_2S \text{ eq/mole})}$$

V_I=volume of standard iodine solution, ml;
N_I=normality of standard iodine solution, g-eq/liter;
V_T=volume of standard sodium thiosulfate solution, ml;
N_T=normality of standard sodium thiosulfate solution, g-eq/liter; and
$V_{m_{std}}$=dry gas volume at standard conditions, liters.

10. *Stability.* The absorbing solution is stable for at least 1 month. Sample recovery and analysis should begin within 1 hour of sampling to minimize oxidation of the acidified cadmium sulfide. Once iodine has been added to the sample, the remainder of the analysis procedure must be completed according to Sections 7.2.2, 7.2, and 7.3.

11. *Bibliography.* 1. "Determination of Hydrogen Sulfide, Ammoniacal Cadmium Chloride Method, API Method 772-54." In: Manual on Disposal of Refinery Wastes, Vol. V: Sampling and Analysis of Waste Gases and Particulate Matter, American Petroleum Institute, Washington, D.C., 1954.

2. Tentative Method of Determination of Hydrogen Sulfide and Mercaptan Sulfur in Natural Gas, Natural Gas Processors Association, Tulsa, Oklahoma, NGPA Publication No. 2265-65, 1965.

3. Knoll, J. E., M. R. Midgett, "Determination of Hydrogen Sulfide in Refinery Fuel Gases," Environmental Monitoring Series, Office of Research and Development, U.S. EPA, Research Triangle Park, North Carolina 27711. EPA 600/4-77-007.

4. Scheill, G. W., and M. C. Sharp, "Standardization of Method 11 at a Petroleum Refinery," Midwest Research Institute Draft Report for U.S. EPA, Office of Research and Development, Research Triangle Park, North Carolina 27711, EPA Contract No. 68-02-1098, August 1976. EPA 600/4-77-088a (Volume 1) and EPA 600/4-77-088b (Volume 2).

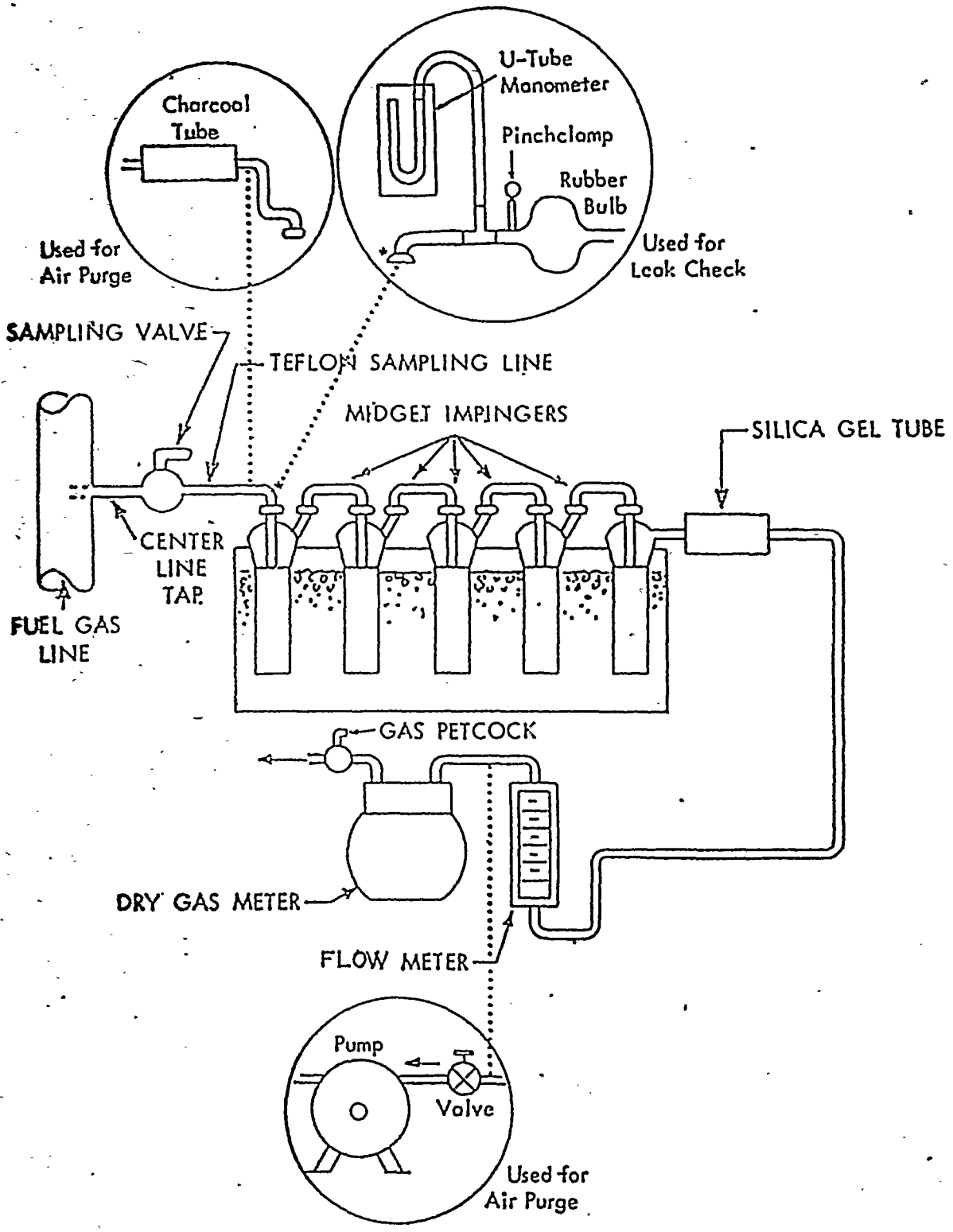

Figure 11-1. H_2S Sampling Train

[FR Doc.77-14563 Filed 5-20-77;8:45 am]

[40 CFR Part 432]
[FRL 726-4]

EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND NEW SOURCE PERFORMANCE STANDARDS

Independent Rendering Industry; Proposed Rules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: This document proposes certain changes in the pollutant discharge limitations for processing plants in the independent rendering industry. The independent renderer recovers salable products such as fats, oils, and proteinaceous meal from discarded animal materials. The effect of the proposed changes would be to make certain pollutant limitations for existing plants (1983 requirements) less stringent and for new plants more stringent than those originally promulgated. EPA has concluded the proposed changes are appropriate after completing a restudy of the industry as directed by the U.S. Court of Appeals for the Eighth Circuit.

DATE: Send comments on rule or economic analysis on or before June 22, 1977.

ADDRESSES: Send comments on rule to the Effluent Guidelines Division, Office of Water and Hazardous Materials, Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460; send comments on economic analysis to the Office of Analysis and Evaluation, WH-586, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; documents relating to this rulemaking proceeding are available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. SW., Washington, D.C.; the supplemental report is available at the EPA Public Information Reference Unit, EPA regional offices, and state water pollution control offices.

FOR FURTHER INFORMATION CONTACT:

Harold Coughlan, Effluent Guidelines Division, Office of Water and Hazardous Materials, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460 (202-426-2560).

SUPPLEMENTARY INFORMATION:

SUMMARY OF BACKGROUND AND BASIS OF PROPOSED AMENDMENTS

A. BACKGROUND AND METHODOLOGY

The new source performance standards for the renderer subcategory of the Meat Products and Rendering Processing Point Source Category, published on January 3, 1975, and codified at 40 CFR 432.105 (Subpart J) was remanded to the Agency for further study on August 30, 1976, by the U.S. Court of Appeals for the Eighth Circuit (*National Renderers Association, et al.*, v. *EPA, et al.*, 541 F. 2d 1281).

Therefore, EPA has reevaluated the technical and economic information on which the original regulation was based, as well as new information in both areas. The Agency finds substantiated the subcategorization, process waste water characteristics, and applicable control technology. However, the new information on cost and performance of the technology led to clarification of the economic impact of such controls on the industry. Consequently, the Agency proposes to amend the standards of performance for new sources and, at the same time, the Agency proposes to amend these portions of the regulations which set forth effluent limitations guidelines representing best available technology economically achievable (§ 432.103).

In summary, the changes proposed rely on the existence of demonstrated technology, and reflect equal requirements for both best available technology economically achievable and standards of performance for new sources. For existing sources the restrictions on BOD, TSS, and ammonia are less stringent than originally promulgated; for new sources the restrictions on these pollutants are more stringent than established in the original new source performance standards. Original limitations for pH and fecal coliform remain unchanged in both cases. The oil and grease requirements are unchanged for BATEA and more stringent for new sources.

In support of the original regulations EPA published a technical report entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Renderer Segment of the Meat Products and Rendering Processing Point Source Category (January 1975)" and a companion economic impact report entitled, "Economic Analysis of Proposed Effluent Guidelines Independent Rendering Industry (July 1974)". Together, these reports presented detailed summaries and rationale for all technical and economic information and conclusions developed therefrom. Subsequent to the remand, the Agency reviewed this data and information and determined that up-to-date data and information on all salient aspects of production, processes, and equipment, waste water sources, effluent control characteristics, and various financial aspects would be necessary to fully respond to questions raised by the Court in its August 30, 1976, opinion. In brief, these questions involved: (1) the waste water treatment technology necessary to meet the new source standards; (2) the cost of such technology; and (3) the probable impact of that cost on decisions to build and operate new rendering plants.

By November 7, 1976, questionnaires were sent pursuant to section 308 of the Act to 380 independent renderers identified by the National Renderers Association. By February 10, 1977, a total of only 250 responses had been received of which 148 contained any substantive information of use in the Agency's study. Only 44 plants provided waste water effluent information necessary to evaluate treatment system effectiveness. In addition to the industry questionnaires sent, earlier sources were revisited, including a resurvey of the technical literature, a second field sampling survey at a rendering plant, additional consultants studies, new submissions from rendering and treatment equipment manufacturers, current NPDES permit data, and information from EPA regional offices and State agencies.

All data and information were reviewed to focus upon both typical and "best" (or "exemplary") practices for in-plant waste control and water usage, raw materials processed, materials recovery, and biological waste treatment methods employed, and any other applicable effluent polishing techniques such as filtration. Analyses of the technical data included quantitative and qualitative reviews, profile, sorting, and statistical assessment where possible and general engineering evaluations. Cost data were compiled from plant submissions, engineering reports, and suppliers; all such data were updated to 1976 base year dollars. Costs of meeting the standards were computed using "model" rendering plants developed to represent a range of both size and type of production process, and incorporated all components of treatment or control systems which the data revealed would achieve the proposed effluent levels. Similarly, economic impact studies utilized both individual plant submissions and the most recent engineering and equipment supplier estimates for financial profiles, capital facilities, cost operating expenses, etc. Current treatment cost data derived in the technical study were used in the actual impact assessment.

B. FINDINGS

After considering all the information available at this time, the Agency finds substantiated its earlier conclusions that the principal sources of waste water are process spills, raw materials drainage, condenser condensate, and plant clean up operations. The Agency also supported its conclusions with respect to characteristics of the waste waters and appropriate effluent control measures.

The data showed that the wastes generated by the independent rendering plants are biodegradable and amenable to treatment and control by in-plant measures, materials recovery using catch basins and biological treatment processes. With proper design and operation of these systems, a stable high quality effluent can be reliably attained with BOD5, TSS, oil and grease, and ammonia mass loadings equal to or better than the proposed new source standards and 1983 limitations.

As discussed in the original Development Document, waste loads are reduced by minimizing the entry of raw mate-

rials into the waste water stream. Water use is reduced by careful attention to cleanup procedures (such as frequent dry clean up of spills and drainage prior to plant washdown) and by careful selection of condensing system. In the current study it was found that approximately 50 percent of the plants that supplied condenser system information had condensers that required no water for cooling (air cooled condensers) or allowed no contact between the cooling water and the waste water (shell and tube condensers). Information developed during this reappraisal of new source standards showed that some manufacturers now include air cooled or shell and tube condensers as part of the standard rendering process equipment and that at least 15 plants have replaced high water usage barometric condensers with air cooled or shell and tube condensers. The type of condenser employed significantly affects the volume of polluted waste water generated by rendering plants. The survey data showed an average flow of approximately 3,900 gallons per 1,000 lb raw material (RM) processed for barometric condensers compared with an average of approximately 150 gallons per 1,000 lb (RM) for air or shell and tube condensers. The use of air cooled or shell and tube condensers is prevalent, as noted in the technical supplement. These condensers are used in all rendering subcategories including those rendering poultry materials.

EPA determined that the use of a dissolved air flotation ("DAF") system is not required to meet any of the proposed limitations or standards. The questionnaire data showed that catch basins with skimmers/settlers are, in the rendering industry, an effective alternative to DAF units and are substantially less expensive than the air flotation system. Thus, while DAF is an option industry can consider, it is more costly than a catch basin and its use is not necessary to meet proposed standards.

"End of pipe" waste water treatment processes which are able to reduce this industry's waste to acceptable levels include activated sludge (extended aeration with equalization), combinations of anaerobic, aerobic, and aerated lagoons, disposal on land, ridge and furrow irrigation, evaporation-percolation ponds, disinfection, and sludge disposal. An equalization tank is recommended for use with extended aeration systems because it will alleviate raw waste load surges which otherwise reduce the efficiency of these systems. The Agency does not consider equalization necessary for lagoon systems because the large volumes and long waste detention times of lagoons adequately dampen any surges in raw waste loads.

In more specific terms, four of the existing well designed and operated plants that meet the proposed limits were of the following design:

Plant 180—Extended aeration form of activated sludge.

Plant 185—Anaerobic followed by aerobic lagoons.

Plants 200 and 202—Mechanically aerated followed by aerobic lagoons.

For primary treatment, plants number 180 and 185 utilize catch basins and plant 202 uses an inoperative DAF unit as a catch basin. Plant 200 utilizes a catch basin followed by a DAF unit.

Two of the principal approaches to meeting the new source standards and the 1983 limitations can be demonstrated by reference to the above rendering plants. Plants 200 and 202 are meeting the standards by maintaining discharge flows at low levels (30.5 and 53 gallons per 1000 lb raw material) in concert with lagoon waste treatment systems of average efficiency. By contrast, plant number 180 discharges 20 percent more than the exemplary flow rate cited above but meets the standards by having a high degree of waste treatment efficiency. The effluent from this activated sludge system is also filtered through mixed media filters. (The standards and limitations actually are met prior to filtering). Operating information for the filter showed that at least a 50 percent reduction in BOD5 and TSS can be effected by this process. The Eighth Circuit noted in its opinion of August 30, 1976, that filters are capable of such reductions. Other industries that have successfully tested and installed filters, include steel manufacturing, petroleum refining, brewing, corn wet milling, wine processing, and food processing.

It must be emphasized that the technology to meet the standards does not require filters. However, even when considered as a possible add-on to lagoons, the economic analysis showed impact was not significantly affected.

In summary, the proposed revised 1983 effluent limitations and new source standards are based on well known and demonstrated control technology. The inplant technology demonstrated includes options such as water conservation, which can be obtained through use of accepted air-cooled and shell and tube condensers and good housekeeping. The end-of-pipe technology employed by exemplary plants includes biological treatment as found in the following systems: anaerobic—aerobic lagoons, anaerobic—mechanicaly aerated—aerobic lagoons, mechanically aerated—aerobic lagoons, and activated sludge (extended aeration) plus chlorination.

Economic Impact Analysis

This section summarizes the economic and inflationary impacts of the new source performance standards and the BATEA requirements on the independent rendering segment of the meat products and rendering processing point source category.

An inflationary impact statement is not necessary because this regulatory action would not exceed any of the four (4) criteria established by the Administrator.

The proposed BATEA requirements for BOD5, TSS and ammonia are less stringent than those originally promulgated. The investment and annual costs necessary to meet the amended BATEA requirements in almost all instances are lower than those for the original limitations. For this reason, a new economic impact analysis was not performed for the revised BATEA standards. Before promulgation of the revised standards a review of the economic analysis of BATEA and public comment will be performed to insure that these regulations will not result in undue economic impact.

The proposed NSPS are more stringent than those originally promulgated for BOD5, TSS, oil and grease and ammonia. The impact of the standards is expected to be minimal for the industry. Almost no construction would be impeded by the imposition of pollution control costs. Plants that would be built in the absence of pollution control costs would also be built in the presence of such costs. Required price increases are expected to be minimal as are the effects on employment, growth and international trade.

The Agency has considered the economic impact of the internal costs (investment plus cost of operation, maintenance, capital and depreciation) and external costs (price increases and impeded growth). For each model rendering plant, the following impact indicators were analyzed; required price increases, after tax income, return on sales and invested capital.

Following is a summary of the economic impact analysis for the model plants. It will be noted that some of the plants generate a profit even though their net present value of projected stream of costs and revenue is negative. In these instances the plant was considered "marginally" likely to be built; i.e., viability would depend on the effectiveness of management and/or slight improvement in economic conditions over those originally assumed.

Small batch processing plants. Technology investment costs ranged from $25,300 to $41,200 and annual costs range from $5,900 to $17,400. Analysis showed that the small packinghouse, dead animal and the poultry offal plants would not be built even in the absence of effluent control costs. The analysis also showed that the dead animal plant, when using used processing equipment, was marginally likely to be built provided no pollution control costs were imposed.

Since small plants (less than 75,000 lb./day raw material) are exempted from any effluent regulations the proposed new source performance standards will not affect this model plant.

Medium batch processing plants. Technology costs range from $61,200 to $106,600 and annual cost range from $11,900 to $27,200. Analysis showed that the packinghouse and poultry batch processing plants would be viable both before and after imposition of pollution controls provided the plants were using used processing equipment. The plants using new processing equipment would be marginally viable and viability would depend on the effectiveness of management.

Large batch plants. Technology investment costs range from $126,000 to

$223,600 while annual costs range from $23,700 to $50,600. The analysis showed that the plants would be built and construction would not be impeded by the imposition of effluent control.

Medium continuous process plants. Technology investment costs range from $81,800 to $142,600, while annual costs range from $15,900 to $39,000. The analysis showed the imposition of various treatment alternatives on the packinghouse and poultry offal plants result in them becoming only marginally likely to be built. However, if operating conditions are only slightly more favorable than originally assumed, it is probable the imposition of effluent control requirements, would not impede growth of these plants.

Large continuous process plants. Technology investment costs range from $158,200 to $257,200, and annual costs range from $27,100 to $61,300. All large plants are economically viable with or without the imposition of effluent control costs.

The external cost analysis performed showed that the required price increases to maintain baseline conditions after installation of pollution control equipment are estimated to be minimal. For almost all new plants, required price increases are less than 2 percent, although for small dead animal new source plants the required price increase could be as high as 4.1 percent. For all batch poultry and medium continuous poultry plants, the required price increase would be approximately 2.8 percent.

EPA invites public comment on the economic analysis. Comment should be sent to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 20460.

Summary of Initial Comments and Responses

The National Renderers Association provided comments on the draft economic and technical reports prepared by EPA's contractors. The National Renderers Association principally drew into question the recommended ammonia and oil and grease limitations.

The technical Supplement to the Development Document shows the proposed Agency ammonia values to be achievable. Several plants are currently meeting them by operating at or below recommended waste water flow rates (e.g., 150 gal per 1,000 lb (RM) and by providing adequate biological treatment for the process waste. The basis for the proposed effluent limitations for ammonia as well as BOD5 and total suspended solids are applicable only to independent rendering plants. As indicated in the original development document, rendering operations differ materially from meat processing packinghouses and poultry processers.

Oil and grease is a major pollutant parameter in all plants in the rendering industry and a principal parameter for assessing overall performance of treatment and control systems. Accordingly, the Agency has established a limitation for oil and grease.

The NRA suggested that the quantity of grease in a rendering plant discharge is directly related to the BOD5 value for that discharge. The NRA recommends that since oil and grease is degradable and non-toxic, it should not be limited or, at least, that monitoring requirements be made optional. The Agency encourages comments with respect to the points raised by NRA, including any specific data on the relationship between BOD5 and the grease content of rendering plant discharges.

Summary of Proposed Revisions to the New Source Performance Stanards and the 1983 Limitations

As a result of the data, information and Court remand, comments assembled for this restudy of the industry, the following changes are proposed to be made in the new source preformance standards and in the effluent limitations guidelines based upon the use of best available technology economically achievable.

(1) New source standards will be changed to make them more stringent than the promulgated limitations. The proposed standards are identical to the proposed 1983 limitations. pH and fecal coliform restrictions in the new source standards have remained unchanged.

(2) The BOD5, TSS and ammonia limits for 1983 limitations have been adjusted upward to allow increased discharges reflecting the performance of plants in the industry.

The report entitled "Supplement to Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Renderer Segment of the Meat Products and Rendering Processing Point Source Category" details the analysis undertaken in support of the proposed regulations. This document is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. The analysis prepared for EPA of the possible economic effects of the regulation, entitled "Economic Analysis of Effluent Guidelines (NSPS) on the Independent Rendering Industry Updated to 1976 Conditions" is also available for inspection at these locations.

A copy of the reports used in developing the proposed regulation and a copy of all public comments are available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library) Waterside Mall, 401 M St., S.W., Washington, D.C. The EPA information regulation, 40 CFR Part 1, provides that a reasonable fee may be charged for copying.

In addition, Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH-586, 401 M St., S.W., Washington, D.C. 20469.

In consideration of the foregoing, it is proposed to amend 40 CFR Part 432 as follows:

Dated: May 2, 1977.

Douglas M. Costle,
Administrator.

Subpart J—Rendering Subcategory

1. By revising § 432.103(a) to read as follows:

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg or raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/1,000 ml.	
English units (pounds per 1,000 lb of raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/1,000 ml.	

* * * * *

2. By revising § 432.105 to read as follows:

§ 432.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time mpn/1,000 ml.	
English units (pounds per 1,000 lb of raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/1,000 ml.	

[FR Doc.77-14320 Filed 5-20-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-28]

[46 CFR Parts 25, 33, 75, 94, 161, 164, 167, 180, 192]

LIFESAVING EQUIPMENT

Lights and Retro-Reflective Material for Life Preservers and Other Lifesaving Equipment

AGENCY: Coast Guard, Department of Transportation.

ACTION: Proposed Rules.

SUMMARY: The Coast Guard is considering amending the lifesaving equipment regulations to require lights and retro-reflective material on life preservers carried on vessels engaged in ocean, coastwise, and Great Lakes service. Life preservers carried on vessels engaged in lakes, bays, sounds, and river service would be required to have retro-reflective material. Additionally, the proposed amendments also contain new approval specifications for lights used on personal flotation devices and for retro-reflective material.

The proposals are based upon recommendations of four Coast Guard marine boards of investigation of vessel casualties. The boards recommended that life preservers be provided with lights for use in locating survivors of vessel casualties. The most recent board also recommended that life preservers be provided with retro-reflective material.

DATES: All comments received before July 4, 1977 will be considered before further action is taken on this notice.

ADDRESS: (a) *Comments:* Written comments on this notice should be submitted to and will be available for examination at the Coast Guard Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(b) *Economic Evaluation.* A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the address listed in paragraph (a) above.

(c) *Other Materials:* Copies of the Marine Boards of Investigation referenced in this notice, the study entitled "Comparative Evaluation of Visual Distress Signals" (Report No. C.G.-D-47-78, dated August 1976) and proposed Federal Specification L-S-300C entitled "Sheeting and Tape, Reflective: Nonexposed Lens" are available for examination at the address listed in paragraph (a) above. Copies of the study may be obtained from the National Technical Information Service, Springfield, Virginia 22151.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: The principal project manager and lawyer involved in the drafting of this notice are LCDR Paul K. Anderson, Project Manager, and William R. Register, Project Attorney.

Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments. Each person submitting a comment should include his or her name and address, identify this notice (CGD 76-28) and give reasons in support of the comment. The proposal may be changed in light of comments received. No hearing is contemplated but one may be held at a time and place set in a later notice in the FEDERAL REGISTER if requested by an interested person desiring an opportunity to comment orally at a public hearing and raising a genuine issue.

A notice of proposed rule making was published in the FEDERAL REGISTER on March 1, 1972 (37 FR 4293), to require lights on life preservers. The notice was later withdrawn to conduct additional study, and notice of withdrawal was published in the FEDERAL REGISTER of July 7, 1972 (37 FR 13350).

The proposed regulations in this notice are based in part upon the results of the additional study, which is entitled "Comparative Evaluation of Visual Distress Signals" (Report No. C.G.-D-47-78, dated August 1976), and upon the recommendations of the marine boards of investigation involving the casualties to the SS *Panoceanic Faith*, MV *Theresa F.*, F/V *Fenwick Island*, and SS C.V. *Sea Witch—Esso Brussels*. The proposed specifications are also based in part upon proposed Federal Specification L-S-300C entitled "Sheeting and Tape, Reflective: Nonexposed Lens."

DISCUSSION OF THE PROPOSED REGULATIONS

The proposed regulations would apply to all inspected vessels. The proposals would also apply to commercial, uninspected vessels, including those carrying six or less passengers for hire. The lifesaving equipment regulations for commercial, uninspected vessels are contained in Part 25 of Title 46, Code of Federal Regulations. Part 25 allows these vessels a choice of carrying different types of life preservers.

The authority to regulate uninspected vessels carrying six or less passengers for hire is contained in Section 5 of the Federal Boat Safety Act of 1971. Section 6 of this Act requires consultation with the National Boating Safety Advisory Council (NBSAC) with respect to proposed regulations issued under the authority of Section 5. Accordingly, the regulations proposed in this notice for commercial uninspected vessels carrying six or less passengers for hire will be presented to NBSAC at its next meeting, which is scheduled for May 1977. Notice of this meeting will be published in the FEDERAL REGISTER.

The proposed regulations would require vessels engaged in ocean, coastwise, or Great Lakes service to have lights and retro-reflective material on life preservers carried on board. The possibility that survivors of a casualty to one of these vessels could drift from the scene of the casualty before the arrival of help is always present because of the response time of search and rescue units for the areas in which these vessels operate. Use of life preserver lights can aid in detection of survivors in these cases.

The proposed regulations would also require use of retro-reflective material on life preservers carried on vessels engaged in lakes, bays, sounds, or rivers service. Survivors of a casualty to one of these vessels would in all probability not drift far from the scene of the casualty before the arrival of help. These vessels operate in areas that generally are within close range of search and rescue units, and retro-reflective material can provide effective assistance in detection of survivors in these cases.

The proposed amendment to Parts 161 and 164 contain approval specifications for lights used on personal flotation devices and for retro-reflective material used on lifesaving equipment. Section 489 of Title 46, U.S. Code, requires that these items be approved by the Coast Guard; and these specifications set out design requirements, approval tests, and procedures for obtaining approval.

The effective date of the regulations proposed in this notice would be one year after their publication in the FEDERAL REGISTER as final regulations. The regulations upon becoming effective would apply both to existing vessels and to vessels built after the effective date of the regulations.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve

Analysis and Review of Regulations" (41 FR 16200). The costs to outfit life preservers on vessels with lights and retro-reflective material in the first year after these regulations became effective would be approximately $12,000,000.

The principal economic benefits resulting from the use of lights and retro-reflective material on life preservers would be those associated with the number of additional lives saved in vessel casualties. Coast Guard data compiled concerning search and rescue incidents in 1975 indicates that approximately 360 incidents involving commercial vessels or its occupants occurred in which a night search was conducted without success in locating the search target. Use of lights and retro-reflective material required by this proposal should significantly increase the probability of detecting survivors at night.

(46 U.S.C. 375, 390b, 391a, 416, 481, 526p, and 1454, 49 U.S.C. 1655(b), and 49 CFR 1.46.)

In consideration of the foregoing, the Coast Guard proposes to amend Title 46, Code of Federal Regulations, as follows:

PART 25—REQUIREMENTS

1. New paragraphs (e) through (i) would be added to § 25.25–5 of Part 25 to read as follows:

§ 25.25–5 Life preservers and other life-saving equipment required.

* * * * *

(e) Each life preserver, each special purpose water safety buoyant device intended to be worn, and each buoyant vest carried on a vessel that is engaged in ocean, coastwise, or Great Lakes service must have (1) A light that is approved under Subpart 161.012 of this chapter; and (2) Retro-reflective material that is approved under Subpart 164.018 of this chapter.

(f) Each light required by this section for an item of lifesaving equipment must be securely attached to the front shoulder area of the item.

(g) If a light required by this section has a non-replaceable power source, it must not be used for more than three years after the date of manufacture of the power source. If the light has a replaceable power source, the power source must be replaced within three years after its date of manufacture and the light must be replaced when it is no longer serviceable.

(h) Each life preserver, each special purpose water safety buoyant device intended to be worn, and each buoyant vest carried on a vessel that is engaged in lakes, bays, sounds, or river service must have retro-reflective material that is approved under Subpart 164.018 of this chapter.

(i) Each item required by this section to have retro-reflective material must have at least 200 sq. cm. (31 square inches) of the material attached on its front side, at least 200 sq. cm. (31 square inches) on its back side, and, if the item is reversible, at least 200 sq. cm. (31 square inches) of material on each of its reversible sides. The material attached on each side of the item, and on each reversible side, must be divided equally between the upper quadrants of the side and the material in each quadrant must be attached as closely as possible to the shoulder area of the item.

PARTS 33, 75, 94, 167, 180, AND 192

2. The following requirements would be added to the lifesaving equipment regulations applicable to vessels in Parts 33, 75, 94, 167, 180 and 192:

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service must have—

(1) A light that is approved under § 161.012 of this chapter; and

(2) Retro-reflective material that is approved under Subpart 164.018 of this chapter.

(b) Each light required by paragraph (a) must be securely attached to the front shoulder area of the life preserver.

(c) If a light required by paragraph (a) has a nonreplaceable power source, it must not be used for more than three years after the date of manufacture of the power source. If the light has a replaceable power source, the power source must be replaced within three years after its date of manufacture and the light must be replaced when it is no longer serviceable.

(d) Each life preserver carried on a vessel engaged in lakes, bays, sounds, or river service must have retro-reflective material that is approved under Subpart 164.018 of this chapter.

(e) Each life preserver required to have retro-reflective material must have at least 200 sq. cm. (31 square inches) of material attached on its front side, at least 200 sq. cm. (31 square inches) on its back side, and if the life preserver is reversible, at least 200 sq. cm. (31 square inches) of material on each of its reversible sides. The material attached on each side of the life preserver, and on each reversible side, must be divided equally between the upper quadrants of the side and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 161—ELECTRICAL EQUIPMENT

3. A new Subpart 161.012 would be added to Part 161 to read as follows:

Subpart 161.012—Personal Flotation Device Lights

Sec.

161.012–1 Scope.
161.012–3 PFD.
161.012–5 Approval procedures.
161.012–7 Construction.
161.012–9 Performance.
161.012–11 Approval tests.
161.012–13 Production tests and inspections.
161.012–15 Markings.

Subpart 161.012—Personal Flotation Device Lights

§ 161.012–1 Scope.

This subpart prescribes construction and performance requirements, approval and production tests, and procedures for approving personal flotation device lights fitted on Coast Guard approved life preservers, buoyant vests, and other personal flotation devices.

§ 161.012–3 PFD.

As used in this subpart, "PFD" means Coast Guard approved personal flotation device.

§ 161.012–5 Approval procedures.

(a) An application for approval of a light under this subpart must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each application for approval must contain the name and address of the applicant, a detailed description of the applicant's production testing program, and a laboratory test report containing observations and results of approval testing that show whether the light meets the construction and performance requirements of this subpart.

(c) The Commandant advises the applicant whether the light is approved. If the light is approved, an approval certificate is sent to the applicant.

§ 161.012–7 Construction.

(a) Each light must be designed to be attached to a PFD without damaging the PFD or interfering with its performance.

(b) Each light and its power source must be designed to be removed and replaced without damage to the PFD.

(c) The power source of a light must have at least a 3 year storage life.

(d) Each light must be capable of preventing leakage from its container of any chemicals it contains or produces.

(e) Each component of a light must be designed to remain serviceable in a marine environment for at least as long as the storage life of the light's power source.

(f) No light may have a water pressure switch.

§ 161.012–9 Performance.

(a) If a light is a flashing light, the maximum period between flashes when the light is first activated must be less than one second.

(b) Each light when activated must be capable of being seen from a distance of at least one nautical mile on a dark, clear night.

(c) Each light must be designed to operate continuously for at least 8 hours while completely submerged in water.

(d) Each light must be designed to operate both in sea water and in fresh water.

§ 161.012–11 Approval tests.

(a) The approval tests described in this section must be conducted for each light submitted for Coast Guard approval. The tests must be conducted by a laboratory that has the equipment and procedures necessary to conduct the tests and that is free of influence and control of the applicant and other manufacturers, suppliers, and vendors of PFD lights.

(b) A sample light must be activated at night under clear atmospheric condi-

tions. If the power source is water activated, two lights must be used; and one of the power sources must be immersed in fresh water and the other in salt water having the approximate salinity of sea water. The light, or lights, when activated must be seen from a distance of at least one nautical mile against a dark background.

(c) At least ten sample lights must be selected at random from a group of at least 25. Five samples must be submerged in salt water having the approximate salinity of sea water and the five other samples must be submerged in fresh water. Each light must then be activated and left submerged for eight hours. At least nine of the ten lights must operate continuously over the eight hour period. If the lights are flashing lights, at least nine of the ten must have a maximum period of not more than one second between flashes when first activated.

(d) Individual tests must be conducted on a sample light to determine whether the light meets the requirements of § 161.012–7.

§ 161.012–13 Production tests and inspections.

(a) The manufacturer of approved lights must randomly select a sample of ten lights from each lot of lights produced. Each lot must not exceed 1,000 lights. At least nine of the ten lights, when tested in accordance with the test described in § 161.012–11(c), must meet the test criteria prescribed by that section. If less than nine lights meet the test criteria, another random sample of ten lights must be taken and tested. If less than nine of these lights meet the test criteria, none of the lights in the lot may be marked with the Coast Guard approval number assigned to the lights.

(b) The Coast Guard does not inspect lights approved under this subpart on a regular schedule. However, the Commandant may select samples and conduct tests and examinations whenever necessary to determine whether the lights are being manufactured in compliance with the requirements in this subpart.

§ 161.012–15 Markings.

(a) Each light manufactured under Coast Guard approval must be permanently and legibly marked with—

(1) The manufacturer's name or trade mark that clearly identifies the model designation; and

(2) The Coast Guard approval number assigned to the light.

(b) The power source of each light must be permanently and legibly marked with its date of manufacture.

PART 164—MATERIALS

4. A new Subpart 164.018 would be added to Part 164 to read as follows:

Subpart 164.018—Retro-Reflective Material for Lifesaving Equipment

Sec.
164.018–1 Scope.
164.018–3 Classification.
164.018–5 Federal specification.
164.018–7 Approval procedures.
164.018–9 Design requirements.
164.018–11 Approval tests.
164.018–13 Production inspection procedures.

§ 164.018–1 Scope.

This subpart prescribes design requirements, approval tests, and procedures for approving retro-reflective material used on lifesaving equipment.

§ 164.018–3 Classification.

The following types of retro-reflective material are approved under this specification:

(a) Type I.—Material used on flexible surfaces and rigid surfaces, except rigid surfaces that are continuously exposed.

(b) Type II.—Weather resistant material used on continuously exposed rigid surfaces.

§ 164.018–5 Federal specification.

(a) Federal Specification L–S–300C entitled "Sheeting and Tape, Reflective: Nonexposed Lens" forms a part of this specification. This Federal specification may be purchased from the Business Service Center, General Services Administration, Washington, D.C. 20407.

(b) When changes are made to this Federal specification, the effective date for their use as a part of the regulations in this subpart will be the effective date set by the issuing authority unless otherwise determined by the Coast Guard.

§ 164.018–7 Procedure for approval.

(a) An application for approval of retro-reflective material must be sent to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each application for approval must contain the name and address of the applicant, a detailed description of the quality control procedures used in manufacturing the material, and a test report containing observations and results of approval testing conducted.

(c) The Commandant advises the applicant whether the retro-reflective material is approved. If the material is approved, an approval certificate is sent to the applicant.

§ 164.018–9 Design requirements.

(a) Type I retro-reflective material must be capable of being attached to lifesaving equipment either by sewing or by an adhesive. Type II material must be capable of being attached to lifesaving equipment either by mechanical fasteners or by an adhesive.

(b) If retro-reflective material is designed for use with an adhesive that is not applied when the material is manufactured, the proper adhesive to be used must be stated on the material or on the package in which the material is supplied to the user.

(c) When retro-reflective material designed for use with an adhesive is tested in accordance with the "adhesion" test method listed in § 164.018–11, the material must not peel for a distance of more than 5 cm. (2 in.).

(d) When dry material is tested in accordance with the "reflective intensity" test method listed in § 164.018–11, the reflective intensity of the material must be equal to or greater than the values for reflective intensity listed in Table 164.018–9.

(e) When wet material is tested in accordance with the "reflective intensity during rainfall" test method listed in § 164.018–11, the reflective intensity of the material must not be reduced by more than ten percent of the values listed in Table 164.018–9.

(f) The reflective intensity of material after testing in accordance with the "resistance to accelerated weathering" test method listed in § 164.018–11 must not be reduced by more than 50 percent of the values listed in Table 164.018–9.

(g) Retro-reflective material must not support fungus growth, and the reflective intensity of the material must not be reduced after testing in accordance with the "fungus resistance" test method listed in § 164.018–11.

(h) After retro-reflective material is tested in accordance with the "resistance to water immersion" test method listed in § 164.018–11, it must continue to have retro-reflective characteristics, except that retro-reflectivity is not required in the area extending 5 mm (0.2 inches) on each side of the cuts made in the material.

(i) Except as provided in paragraphs (c) through (h) of this section, retro-reflective material when tested in accordance with § 164.018–11 must meet the requirements prescribed in the test methods listed in Federal Specification L–S–300 for the materials.

TABLE 164.018–9.—*Reflective intensity.*

	Incidence angle[1] (in degrees)	Reflective intensity[1]
Divergence angle:[1]		
0.2	−4	150.0
0.2	+30	75.0
0.5	−4	57.0
0.5	+30	33.0
2.0	−4	2.5
2.0	+30	2.0

[1] These terms are described in Federal specification L–S–300.

§ 164.018–11 Approval testing.

(a) Retro-reflective material submitted for Coast Guard approval must be tested in accordance with the following test methods described in Federal Specification L–S–300:

(1) Test conditions.

(2) Test panels.

(3) Adhesion test method using a 0.79 kg (1.75 lb.) test weight. (This test method is required only for material that is designed for use with an adhesive).

(4) Flexibility test method and subtest methods "flexibility at standard conditions" and "flexibility at reduced temperatures," except that when testing Type I material a 1.5 mm (1/16 inch) mandrel must be used in place of the mandrel described in these test methods and the material must be unmounted.

(5) Solvent resistance.
(6) Reflective intensity.
(7) Resistance to accelerated weathering test method and subtest methods "reflective intensity after accelerated weathering," "reflective intensity during rainfall," and "adhesion after accelerated weathering." (The "adhesion after accelerated weathering" test method is required only for materials designed for use with an adhesive. The "resistance to accelerated weathering" test method must be performed for 250 hours, if testing Type I material, and for 1000 hours if testing Type II material).
(8) Resistance to heat, cold, and humidity.
(9) Resistance to water immersion test method except that the material must also be examined with a light for retro-reflective characteristics.
(10) Fungus resistance.
(11) Abrasion resistance.

(b) If material is designed for use with an adhesive, the "adhesion" test method required by paragraph (a)(3) of this section must be repeated using a 0.79 kg. (1.75 lb.) test weight and using each of the following materials as a test panel in place of the aluminum test panel required by this test method:
(1) Smooth panel of cured rigid polyester resin (Types I and II material).
(2) Cotton drill or canvas (Type I material only).
(3) Nylon fabric (Type I material only).
(4) Flexible vinyl sheeting (Type I material only).
(5) Natural or synthetic rubber sheeting (Type I material only).

(c) Each material listed in paragraph (b) of this section when used as a test panel must be bonded to a rigid backing.

§ 164.018–13 **Production inspections.**

The Coast Guard does not inspect retro-reflective material approved under this subpart on a regular schedule. However, the Commandant may select samples and conduct tests and examinations whenever necessary to determine whether retro-reflective material is being manufactured in compliance with the requirements of this subpart.

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11021, as amended, and OMB Circular A–107.

Dated: May 11, 1977.

O. W. SILER,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc.77–14555 Filed 5–20–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

(Docket No. 21239; RM–2803)

FM BROADCAST STATIONS IN BONITA SPRINGS, JENSEN BEACH, JUPITER, MIAMI, DELRAY BEACH, AND POMPANO BEACH, FLORIDA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making and Order to Show Cause.

SUMMARY: In response to a petition filed by Gold Coast Broadcasting Corporation, a Notice of Proposed Rule Making is released proposing the substitution of Class C Channel 241 for Channel 240A currently assigned to Bonita Springs, Florida. Because of spacing requirements, channel assignment changes are proposed for five other Florida cities. An Order to Show Cause is directed to two current licensé holders who would be affected by the proposal.

DATES: Comments must be received on or before June 27, 1977, and reply comments must be received on or before July 18, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Victor D. Ines, Broadcast Bureau, Policy and Rules Division, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1977.

Released: May 18, 1977.

In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Bonita Springs, Florida).

1. *Petitioner, Proposed and Comments.*—(a) Notice of Proposed Rule Making is given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's Rules and Regulations) as concerns Bonita Springs, Florida.

(b) A petition for rule making was filed by Gold Coast Broadcasting Corporation ("petitioner"), through counsel, proposing the substitution of Class C Channel 241 for Channel 240A currently licensed to petitioner in Bonita Springs, Florida. In order for the proposed Channel 241 substitution to meet Commission spacing requirements with present transmitter sites of adjacent and co-channel facilities, petitioner also proposes three additional changes in the Table of Assignments. First, Channel 272A is proposed as a substitution for Channel 296A currently assigned to Jensen Beach, Florida.[1] Second, Channel 296A is proposed as a substitution for Channel 244A licensed to Lighthouse Broadcasting (WRYZ–FM) in Jupiter, Florida. And third, Channel 243 is proposed as a substitution for Channel 242 licensed to Bartell Broadcasting of Florida, Inc. (WMJX–FM) in Miami, Florida.[2] No oppositions have been received.

2. *Community Data.*—(a) *Location:* Bonita Springs is located on the southwest coast of Florida, approximately midway between Fort Myers and Naples, Florida.

(b) *Population:* Bonita Springs, 1,932; Lee County, 105,216 (1970 U.S. Census).

(c) *Local Broadcast Service:* WLEQ–FM (Channel 240A) licensed to petitioner, is the only currently assigned aural service in Bonita Springs.

(d) *Economic Data:* Petitioner indicates that, with an average year-round temperature of 77.4°, Bonita Springs is an ideal vacationing and retirement area which experiences a great influx of tourists in the winter months. Approximately one-third of the community's working force is engaged in agriculture, one-third in construction, and one-third in sales and service related occupations. Petitioner has furnished data predicting rapid growth for the community, and it would initially appear that Bonita Springs and the surrounding area could economically support the requested assignment.

3. *Preclusion Considerations:* A preclusion study was made for all the channels involved in the proposal (Channels 241, 272A, 296A and 243). Additional preclusion occurs on Channels 240A, 244A and 272A. The preclusion on Channel 240A occurs in the southwestern coastal regions of the Everglades. The preclusion on Channel 272A occurs in Lake Okeechobee. Since these preclusions occur over a body of water or marsh or over sparsely populated areas, they appear to be of little significance. However, the preclusion on Channel 244A occurs off the coast of southern Florida in an area of the Florida Keys.[3] Petitioner has indicated that Channels 228A, 272A, 276A or 280A could be assigned to this precluded area. Additionally, if the proposed substitution of Channel 272A is made at Jensen Beach, Florida, spacing considerations will prevent Channel 274 presently used at Pompano Beach, Florida, from ever relocating within Delray Beach, Florida, the city to which that channel is currently assigned.[4] Since the substitution of Jensen Beach can only be accomplished if Channel 274 remains at Pompano Beach, the Table of FM channel assignments should be amended accordingly to reflect this location restriction. Although petitioner does not include this change as part of his current petition, we will propose the change as this would additionally bring the assignment into conformity with the present provisions of Section 73.203(b) which no longer allows a channel assigned to one city to be used at a different city if the distance between the two communities exceed 15 miles as is the case here.

4. *Coverage.* The petitioner shows that a Class C station operating with proposed facilities of 100 kW ERP and a 550 foot antenna would provide a 1mV/m

[1] There are currently four applicants for the Jensen Beach 296A frequency, and petitioner requests that the channel on which the successful Jensen Beach applicant will operate on should be conditioned on the outcome of this rule making.

[2] Petitioner agrees to meet the "reasonable costs" which would be incurred, under applicable Commission precedents, in the event the Jupiter and Miami stations are required to change channels.

[3] Marathon, Florida (pop. 3,097) lies in this area, and is presently assigned fulltime AM Station WFFG and WMUM–FM on Channel 232A.

[4] Under previous Commission Rules, Channel 274 was allowed to be used at Pompano Beach even though the channel was assigned to Delray Beach. The current Rules (§ 73.203 (b)) will not allow this situation if the cities involved are more than 15 miles apart.

service contour over an area of approximately 7,086 square kilometers (2,736 square miles) to 156,015 persons. In addition, a showing was made of other FM services located within the proposed service area and this data indicated that all portions of the described service area are currently receiving from one to eight FM services.

5. *Comments.* (a) Although petitioner has asserted sufficient need and interest to warrant issuance of this Notice to further pursue the possibility of making the changes proposed, petitioner should indicate the portion of the area and population that would be receiving the proposed second FM service. Petitioner should also indicate whether there are any areas and populations that would receive a second aural service.[5]

(b) Regarding petitioner's request to substitute Class C Channel 241 for its currently assigned Class A channel, the current Commission policy regarding such modification requests is that the public interest is best served where interested parties are given an equal opportunity to apply for any newly assigned channel.[6] Since no other parties have thus far expressed an interest in the proposed Class C Channel 241 in Bonita Springs, we are proposing to make the requested modification. However, should another party oppose the proposed modification and express an appropriate interest in the Channel 241 assignment in comments to this Notice, comparative consideration must be afforded to any competing application for the channel assigned. Additionally, since petitioner's request would require deletion of the Class A assignment, petitioner should indicate whether other Class C channels would be available for assignment.

(c) As indicated above, since Stations WRYZ–FM, Jupiter, Florida, and WMJX–FM, Miami, Florida, would be required to change frequencies if the proposed assignment is made, they must be given the opportunity to indicate whether they consent to or are opposed to the changes proposed and the Order to Show Cause is adopted for this purpose. Their general comments on the appropriateness of the proposal are also invited.

PROPOSED AMENDMENT TO THE FM TABLE OF ASSIGNMENTS

6. In view of the above, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) with regard to the communities below as follows:

City	Channel No.	
	Present	Proposed
Bonita Springs, Fla.	240A	241
Jensen Beach, Fla.	296A	272A
Jupiter, Fla.	244A	296A
Miami, Florida	220, 242, 247, 256, 268, 108	220, 243, 247, 256, 268, 293
Delray Beach, Fla.	274	
Pompano Beach, Fla.		274

7. *It is ordered,* That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licensee of Station WRYZ–FM, Jupiter, Florida, shall show cause why its license should not be modified to specify operation on Channel 296A if the Commission determines that the public interest would best be served by adopting the proposed assignment.

8. *It is further ordered,* That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licensee of Station WMJX–FM, Miami, Florida, shall show cause why its license should not be modified to specify operation on Channel 243 if the Commission determines that the public interest would best be served by adopting the proposed assignment.

9. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the licensees of Stations WRYZ and WMJX may, not later than June 27, 1977, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, WRYZ and WMJX may, not later than June 27, 1977, file a written statement showing with particularity why their licenses should not be modified as proposed in this Order to Show Cause. In this case, the Commission may call on WRYZ and WMJX to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, WRYZ and WMJX will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

10. *Authority:* The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

11. *Comments and Replies:* Interested persons and parties may file comments on or before June 27, 1977, and reply comments on or before July 18, 1977.

12. *It is further ordered,* That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Station WRYZ–FM, Lighthouse Broadcasting, Radio Park, Jupiter, Florida 33458, and Station WMJX–FM, Bartell Broadcasting of Florida, Inc., 825 41st Street, Miami Beach, Florida 33140, the parties to whom the Order to Show Cause is directed.

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

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who

[5] See Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974). A showing of second service is important, as ordinary we would not assign a Class C channel to a community as small as Bonita Springs.

[6] See Cheyenne, Wyoming, 62 F.C.C. 2d 63 (1976).

filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-14554 Filed 5-20-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-103]

MID LOUISIANA GAS CO.

Emergency Order

On May 12, 1977, Mid Louisiana Gas Company (Mid Louisiana) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), a petition to make certain emergency purchases of natural gas from Houston Pipeline Company (Houston). Mid Louisiana also requested permission to have this gas transported. For the reasons set forth below, I authorize the emergency purchases of natural gas and the transportation requested.

By contract dated May 2, 1977, Mid Louisiana agreed to purchase up to 900,000 Mcf of gas at a rate of up to 15,000 Mcfd on a best efforts basis from Houston at a mutually agreeable point of delivery. The contract between Mid Louisiana and Houston is to begin on the date of first delivery of gas and to remain in effect for a period of sixty consecutive days thereafter.

Mid Louisiana will purchase these supplies at a price of $2.20 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Mid Louisiana advises that a series of arrangements have been made for the transportation of the subject gas. Transcontinental Gas Pipeline Corporation (Transco) has agreed to transport the subject gas from a mutually agreeable point of delivery on its existing pipeline facilities located in Fort Bend County, Texas to an existing interconnection between the facilities of Mid Louisiana and Transco in St. James Parish, Louisiana. Mid Louisiana has agreed to pay Transco a transportation charge of 12.25 cents per dekatherm plus three percent of the volume for use as compressor fuel. If additional measuring facilities must be constructed by Transco, Mid Louisiana has agreed to reimburse a portion of this cost. I find no basis for prescribing other charges since the parties have agreed upon the transportation charges.

According to the official files of the Federal Power Commission, Houston is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "(t)he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. at 8. In addition § 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provisions of state law.

Midland Louisiana advises and I find that the gas made available by Houston will result in a commingling of interstate natural gas with Houston's normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Houston and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which Midland Louisiana seeks approval may result in some commingling of interstate natural gas with Houston's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas.

Under the provisions of section 9 (b), (c) of Pub. L. 95-2 (91 Stat. 4.9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Houston or such other parties or require a redetermination of prices provided in such contracts by reasons of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Pub. L. 95-2 since Houston is selling, delivering and transporting gas for Midland Louisiana pursuant to Section 6(a) of that Act. Houston and any third person whose gas is commingled with mid Louisiana's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

Midland Louisiana shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Houston to sell to Midland Louisiana up to 15,000 Mcfd of natural gas on the terms and conditions set forth in Midland Louisiana's filing in 6(c)(1) of the Act, I hereby authorize and order Houston to transport gas for Midland Louisiana.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Midland Louisiana and Houston. This order shall be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulation which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 16, 1977.

[FR Doc.77-14749 Filed 5-20-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PROPOSED RECONSTRUCTION OF THE BIG CREEK DAM EIS—THE SELWAY-BITTERROOT WILDERNESS WITH PROVISIONS FOR THE USE OF MOTORIZED EQUIPMENT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed Reconstruction of the Big Creek Dam EIS—The Selway-Bitterroot Wilderness with Provisions for the Use of Motorized Equipment, Forest Service Report Number USDA-FS-DES(Adm) 77-02.

The environmental statement concerns the proposed reconstruction of the existing Big Creek Dam located at the outlet of Big Creek Lakes in the Selway-Bitterroot Wilderness, Montana.

This draft environmental statement was transmitted to CEQ on May 17, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, DC 20013.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59807.
USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

A limited number of single copies are available upon request to:

USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any

environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Robert S. Morgan, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

Comments must be received by July 17, 1977, in order to be considered in the preparation of the final environmental statement.

EINAR L. ROGET,
Acting Deputy Chief,
Forest Service.

MAY 17, 1977.

[FR Doc.77-14551 Filed 5-20-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

IOWA ADVISORY COMMITTEE

Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Friday, April 1, 1977, (FR Doc. 77-9732 on page 17508 is hereby amended. The meeting will be held at 2101 Fleur Drive, Room 226, Holiday Inn South, Des Moines, Iowa 50315 instead of Estes Residence 944 9th Avenue.

The date and time of the meeting will remain the same.

Dated at Washington, D.C., May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14518 Filed 5-20-77;8:45 am]

IOWA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 5 p.m. on June 15, 1977 and will end at 1 p.m. on June 16, 1977, at City Council Chambers, East 1st and Locust Street, Des Moines, Iowa.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of this Advisory Committee hearing is to receive testimony on the administration and implementation of the Comprehensive Employment and Training Act program in the Greater Des Moines area.

This meeting will be conducter pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14521 Filed 5-20-77;8:45 am]

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m. on July 9, 1977, at 2404 Ken Oak Road, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The Advisory Committee will hear subcommittee reports on education, housing and employment. Current project will be discussed and plans made for new program plans.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14519 Filed 5-20-77;8:45 am]

WYOMING ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12 noon on June 4, 1977, 516 W. 17th Street, Job Service Center, Cheyenne, Wyoming 82001.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is an abortion subcommittee will review report on abortion services in public hospitals in Wyoming.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14520 Filed 5-20-77;8:45 am]

SAN FRANCISCO, CALIFORNIA

Hearing on Age Discrimination

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, as amended, 42 U.S.C. 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. 6101 et seq. (1976). The hearing will be held on June 27 and June 28, 1977, in San Francisco, California at the Hastings College of the Law, University of California, 198 McAllister Street, Moot Court, 4th Floor, Room 423, San Francisco, California. An Executive Session, if appropriate, will be convened on June 27 at the Hastings College of the Law, University of California, 198 McAllister Street, Moot Court, 4th Floor, Room 423, San Francisco, California.

The purpose of the hearing is to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The hearing will focus particular attention on the following programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation, Legal Services; Title XX of the Social Security Act; Food Stamps; Medicaid, and selected areas within Education.

Dated at Washington, D.C., May 17, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-14499 Filed 5-20-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

The meeting of the Computer Systems Technical Advisory Committee scheduled for Thursday, June 9, 1977, has been rescheduled for Wednesday, June 8, 1977, at 1:30 p.m., in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The agenda and other information relating to the Committee meeting, as published in the FEDERAL REGISTER (42 FR 23869), on Wednesday, May 11, 1977, remain unchanged.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-14547 Filed 5-20-77;8:45 am]

Economic Development Administration

PETTYJOHN BROTHERS SHOE MANUFACTURING, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Pettyjohn Brothers Shoe Manufacturing, Inc., 601–603 Twelfth Street, Lynchburg, Virginia 24505, a producer of footwear for infants and children, was accepted for filing on May 13, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of June 2, 1977.

JACK W. OSBURN, Jr.,
Chief Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77–14494 Filed 5–20–77;8:45 am]

MARITIME ADMINISTRATION

[Docket No. S–558]

OVERSEAS BULKTANK CORP. AND INTERCONTINENTAL BULKTANK CORP.

Application

Notice is hereby given that Overseas Bulktank Corporation (Overseas) and Intercontinental Bulktank Corporation (Intercontinental), affiliated companies, 1114 Avenue of the Americas, New York, New York 10036, have filed a letter application dated April 28, 1977, with the Maritime Subsidy Board (the Board), pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), to add one vessel each to their Operating-Differential Subsidy Agreements (OSDA), Contract Nos. MA/MSB–218 and MA/MSB–216, respectively, to expire December 31, 1977, unless extended, in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry or liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Overseas has applied to include the ST *Overseas Valdez*, 37,814 deadweight tons (DWT), in MA/MSB–218 and Intercontinental has applied to include the ST *Overseas Alice*, 37,314 DWT, in MA/MSB–216. Both have been bareboat chartered to Sea Tankers, Inc (Tankers), 1114 Avenue of the Americas, New York, New York 10036, an affiliate of Overseas and Intercontinental, and included in Tankers' ODSA, MA/MSB–233. These bareboat charters are due to expire on May 23, 1977 and June 10, 1977.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessels named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before June 2, 1977, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR Part 201). Each such statement of interest and petition for leave to intervene shall state whether a hearing is requested under section 605(c) of the Act and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purposes of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by the vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No 11.504 Operating-Differential Subsidy (ODS).)

Dated: May 18, 1977.

By order of the maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77–14556 Filed 5–20–77;8:45 am]

Office of the Secretary

ACTIVITIES OF ADVISORY COMMITTEES

Public Availability of Report on Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I, Supp. V, 1975) and Office of Management and Budget Circular No. A–63 of March 27, 1974, those advisory committees of the Department which held meetings in 1976 that were closed to the public have prepared reports on the activities of these meetings. Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Rare Book Reading Room, Room 256, Main Building, 10 First Street SE., Washington, D.C. 20540.

Department of Commerce, Central Reference and Records Inspection Facility, Room 5316, Main Commerce Building, 14th Street between Constitution Avenue and E Streets NW., Washington, D.C. 20230.

The reports cover the closed and partially closed meetings of thirty-eight committees and twelve subcommittees, the names of which are listed below.

COMMITTEE (SUBCOMMITTEE)

Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee.

Computer Systems Technical Advisory Committee.

Foreign Availability Subcommittee.

Hardware Subcommittee.

Technology Transfer Subcommittee.

Electronics Instrumentation Technical Advisory Committee.

Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN).

Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for MTN.

ISAC on Automotive Equipment for MTN.

ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN.

ISAC on Construction, Mining, Agricultural, and Oil Field Machinery and Equipment for MTN.

ISAC on Consumer Electronic Products and Household Appliances for MTN.

ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN.

ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN.

ISAC on Ferrous Metals and Products for MTN.

ISAC on Food and Kindred Products for MTN.

ISAC on Hand Tools, Cutlery, and Tableware for MTN.
ISAC on Industrial Chemicals and Fertilizers for MTN.
ISAC on Leather and Products for MTN.
ISAC on Lumber and Wood Products for MTN.
ISAC on Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery for MTN.
ISAC on Miscellaneous Manufactures, Toys, Muscial Instruments, Furniture, Etc., for MTN.
ISAC on Nonferrous Metals and Products for MTN.
ISAC on Office and Computing Equipment for MTN.
ISAC on Other Fabricated Metal Products for MTN.
ISAC on Paint, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN.
ISAC on Paper and Products for MTN.
ISAC on Photographic Equipment and Supplies for MTN.
ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN.
ISAC on Retailing for MTN.
ISAC on Rubber and Plastics Materials for MTN.
ISAC on Scientific and Controlling Instruments for MTN.
ISAC on Stone, Clay, and Glass Products for MTN.
ISAC on Textiles and Apparel for MTN.
National Advisory Committee on Oceans and Atmosphere.
North Pacific Fishery Management Council.
Numerically Controlled Machine Tool Technical Advisory Committee.
Definitions Subcommittee.
Foreign Availability Subcommittee.
New Technology Subcommittee.
President's Export Council Subcommittee on Export Administration.
Sea Grant Review Panel.
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee.
Assembly, Packaging and Test Subcommittee.
Materials Preparation Subcommittee.
Pattern Generation and Image Transfer and Inspection Subcommittee.
Wafer Processing Subcommittee.
Semiconductor Technical Advisory Committee.
Telecommunications Equipment Technical Advisory Committee.

Dated: May 3, 1977.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-14493 Filed 5-20-77;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

PROPOSED FUTURES CONTRACTS

Availability

In accordance with its established policy, the Commodity Futures Trading Commission ("Commission") is making available copies of the following proposed futures contracts submitted for contract market designation pursuant to sections 5 and 5a of the Commodity Exchange Act, as amended.

1. Gold submitted by the New York Mercantile Exchange.
2. Crude Coconut Oil submitted by the Chicago Mercantile Exchange.
3. Stud Lumber submitted by the Chicago Mercantile Exchange.

Copies of these proposed contracts will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. Additionally, the Commission will furnish copies of these proposed contracts upon request to the Executive Secretariat.

Any person interested in expressing his views on the terms and conditions of any of the proposed contracts should send his comments by June 22, 1977 to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on May 17, 1977.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc.77-14498 Filed 5-20-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting: National Advisory Committee for the Flammable Fabrics Act.

SUMMARY: This notice announces a meeting of the National Advisory Committee on Monday, June 6, 1977, from 9:30 a.m. to 5 p.m., and Tuesday, June 7, 1977, from 9:30 a.m. to 1 p.m., in the third floor hearing room, 1111 18th Street NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The National Advisory Committee provides advice and recommendations on Commission proposals and plans to reduce the frequency and severity of burn injuries involving flammable fabrics.

Agenda topics tentatively scheduled include a discussion of wearing apparel, information and education activities in the area of flammability, and a discussion of the Commission's priority-setting mid-year review of its activities.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Advisory Committee should notify the Office of the Secretary (see address below) by May 31, 1977. The notification should list the name of the individual who will make the presentation, the person, company, group, or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

Dated: May 19, 1977.

SADYE E. DUNN,
Deputy Secretary.

[FR Doc.77-14666 Filed 5-20-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE

Meeting

MAY 19, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) in accordance with the purpose of Section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036) and Section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), notice is hereby given that the General Advisory Committee will hold a meeting on June 7 and 8 in Washington, D.C. The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public. The open sessions will be held in Room 4222C at ERDA Headquarters Building, 20 Massachusetts Avenue, NW., Washington, D.C.:

JUNE 7—20 MASSACHUSETTS AVENUE, NW., WASHINGTON, D.C.

9:00—5:00 p.m.—GAC's Solar Study.
7:00—9:00 p.m.—GAC's Business Session.

JUNE 8— 20 MASSACHUSETTS AVENUE, NW., WASHINGTON, D.C.

9:00—10:00 a.m.—Briefing on Synthetic Fuels Commercialization.
10:00—11:00 a.m.—Briefing on Near- and Long-Term Conservation Technologies.
11:00—12:00 noon—Briefing on International Reaction to the National Energy Policy.
1:00—2:00 p.m.—Briefing on Waste/Storage Current Status of Plans for Disposal.

In addition to the above agenda items, the Committee will meet in closed session with staff in sessions not open to the public under the authority of Section 10 (d) of Pub. L. 92-463 as follows:

JUNE 8

2:00—3:00 p.m.—Briefing by National Academy of Sciences Committee on Nuclear and Alternative Energy Studies (CONAES) (Exemption 4 of 5 U.S.C. 552b(c)).
3:00—5:00 p.m.—Briefing: Alternative Enrichment Technologies and reprocessing (Exemptions 1 and 3 of 5 U.S.C. 552b(c)).

Those sessions will involve information exempt from disclosure under 5 U.S.C. 552b(c), exemptions (1), (3), and (4).

I have determined that it is necessary to close these portions of the meeting to receive and discuss information which falls within exemptions (1), (3), and (4),

of 5 U.S.C. 552b(c). Any non-exempt material that may be discussed at these sessions will be inextricably intertwined with the discussion of exempt material and no further separation is practical. It is essential to close such portions of the meeting to protect such classified and privileged information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 13 copies thereof, postmarked no later than May 31, 1977, to the Secretary, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call to the Office of the Secretary of the Committee on 202-376-4678 between 8:30 a.m. and 5 p.m., eastern time. Members of the public who are interested in attending are urged to call since the location or schedule may change.

(c) Questions at the meeting may be propounded only by members of the General Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-14730 Filed 5-20-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 731-8; OPP-50294]

ABBOTT LABORATORIES

Issuance of Experimental Use Permits

The Environmental Potection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 275-EUP-13. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 266.34 pounds each of the plant growth regulators gibberellic acid and N-[phenylmethyl]-1H-purin-6-amine on apples to evaluate improvement of typiness or shape of the fruit. A total of 8,496 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 5, 1977, to June 1, 1978. Temporary tolerances for residues of the active ingredients in or on apples have been established.

No. 275-EUP-16. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 1.25 pounds each of the plant growth regulators gibberellic acid and N-[phenylmethyl]-1H-purin-6-amine in a tank mixture on apples to evaluate improvement of typiness or shape of the fruit. A total of 40 acres is involved; the program is authorized only in the States of California, Colorado, Georgia, Idaho, Illinois, Michigan, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Washington, and West Virginia. The experimental use permit is effective from April 5, 1977, to June 1, 1978. Temporary tolerances for residues of the active ingredients in or on apples have been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 1 6(a) et seq.).)

Dated: May 11, 1977.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc.77-14488 Filed 5-20-77;8:45 am]

[FRL 732-1]

HENRY D. SMITH

Approval of State Application for Nebraska Drinking Water Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Dr. Henry D. Smith, Director of Health, Nebraska State Department of Health, has submitted to the Environmental Protection Agency (EPA) an application to assume primary enforcement responsibility over public water supply systems in the state of Nebraska.

Notice is hereby given that the Regional Administrator, EPA, Region VII, has approved this application for primary enforcement authority, to become effective on June 22, 1977. This action is based on a thorough evaluation of the state's public water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

1. State primary drinking water regulations;
2. An inventory of public water supply systems;
3. A systematic program of sanitary surveys;
4. A state program for certification of laboratories;
5. State laboratory facilities certified by EPA;
6. A public water supply system plan review program;
7. Adequate statutory or regulatory enforcement authority;
8. Record-keeping and reporting procedures;
9. A program for issuing variances and exemptions;
10. A plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the Nebraska program fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination on or before June 22, 1977. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

Charles V. Wright, Acting Regional Administrator, U.S. Environmental Protection Agency, 1735 Baltimore, Kansas City, Missouri 64108.

and shall include the following information:

1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.
3. The signature of the individual making the request; or, if the request is made on be-

half of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Nebraska application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Nebraska:

The Nebraska State Department of Health, Division of Environmental Engineering, 301 Centennial Mall South, Lincoln, Nebraska 68509.

Dated: May 13, 1977.

CHARLES V. WRIGHT,
Acting Regional Administrator, Region VII.

[FR Doc.77-14489 Filed 5-20-77;8:45 am]

[FRL 731-5; OPP-50298]

ARMY ENVIRONMENTAL HYGIENE AGENCY, ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 38349-EUP-2. U.S. Army Environmental Hygiene Agency, Fort George G. Meade, Maryland 20755. This experimental use permit allows the use of 22 pounds of the insecticide temephos in three effluent drainage canals to evaluate control of black fly larvae. The total area involved is 3.6 km.; the program is authorized only in the State of Tennessee. The experimental use permit is effective from April 14, 1977, to April 14, 1978.

No. 6296-EUP-1. Nutrilite Products, Inc., Buena Park, California 90620. This experimental use permit allows the use of 94 ounces of pyrethrin and 56.2 ounces of *Bacillus thuringiensis* Berliner as insecticides on ornamental flowers and various raw agricultural products to evaluate control of various insects. The program is authorized in the contiguous 48 States, Alaska, and Hawaii. The experimental use permit is effective from April 14, 1977, to April 14, 1978. Exemptions from the requirement of a tolerance for residues of the active ingredients in or on raw agricultural commodities have been established (40 CFR 180.1011 and 40 CFR 180.1001 (b) (7)).

No. 10464-EUP-4. Weyerhaeuser Company, Centralia, Washington 98531. This experimental use permit allows the use of 59.5 pounds of the herbicide 3-Cyclohexyl-6-(dimethylamino) - 1 - methyl - 1,3,5 - triazine-2,4 (1H,3H)-dione on Loblolly pine to evaluate control of non-crop vegetation. A total of 5 acres is involved; the program is authorized only in the States of Arkansas and North Carolina. The experimental use permit is effective from April 14, 1977, to April 14, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.)).)

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-14484 Filed 5-20-77;8:45 am]

[FRI 731-3; PF70]

BASF WYANDOTTE CORP.

Filing of Pesticide Petition

BASF Wyandotte Corp., 100 Cherry Hill Rd., P.O. Box 181, Parsippany N.J. 07054, has submitted a petition (PP7F1889) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.355 be amended by establishing a tolerance for combined residues of the herbicide bentazon (3 isopropyl-1*H*-2,1,3-benzothiadiazin-4 (3*H*)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodity lima beans (succulent) at 0.05 part per million (ppm). On January 17, 1977, a notice was published (42 FR 3191) in the FEDERAL REGISTER announcing that BASF Wyandotte had filed PP 7F1889 proposing the establishment of tolerances for the subject pesticide on the raw agricultural commodity group seed and pod vegetables (dry) at 0.05 ppm. The tolerance on lima beans (succulent) should have been included in that notice but was inadvertently omitted. The proposed analytical method for determining residues is a gas chromatographic procedure using a flame photometric detector in the sulfur specific mode (394 nanometers). Notice of this submission is given pursuant to the provisions of section 408(d) (1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the FEDERAL REGISTER Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-2632. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 11, 1977.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc.77-14483 Filed 5-20-77;8:45 am]

[FRL 731-7; OPP-50300]

DEPARTMENT OF AGRICULTURE

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 27586-EUP-8. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20013. This experimental use permit allows the use of approximately 32.1 pounds of the insecticide nucleopolyhedrosis virus on forest areas to evaluate control of Gypsy moth larvae. A total of 6,605 acres is involved; the program is authorized only in the States of Pennsylvania, New Jersey, Massachusetts, and New York. The experimental use permit is effective from April 22, 1977, to April 22, 1978.

No. 27586-EUP-13. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20250. This experimental use permit allows the use of 38 pounds of the fungicide Methyl 2-benzimidazolecarbamate hydrochloride in elm trees to evaluate control of Dutch Elm disease. A total of approximately 525 trees is involved; the program is authorized only in the State of Michigan and in Washington, D.C. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

No. 27586-EUP-16. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20250. This experimental use permit allows the use of 130 pounds of the fungicide Methyl 2-benzimidazolecarbamate phosphate in elm trees to evaluate control of Dutch Elm disease. A total of approximately 600 trees is involved; the program is authorized only in the States of Illinois and Ohio. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-14486 Filed 5-20-77;8:45 am]

[FRL 730-7; OPP-42043A]

MINNESOTA

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to the U.S. Environmental Protection Agency (EPA) for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On February 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 11038) of the intent of the Regional Administrator, EPA Region V, to approve, on a contingency basis, the Minnesota State Plan for the Certification of Pesticide Applicators (Minnesota State Plan). Contingent approval was requested by the State of Minnesota pending promulgation of implementing regulations. Copies of the Minnesota State Plan were made available for public inspection at the State Office Building, Minnesota Department of Agriculture, St. Paul, Minnesota; the Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V, Chicago; and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA, Washington, D.C.

The Minnesota State Plan will remain available for public inspection at the Minnesota Department of Agriculture, State Office Building, St. Paul, Minnesota.

Comments were received from the National Canners Association and Orkin Exterminating Company, Inc. The National Canners Association commented that, because pesticide applicator training is not mandated by the amended FIFRA, the proposed training budget of the Minnesota Cooperative Extension Service (MN CES) should not be considered by EPA in its assessment of the adequacy of funding to support the pesticide applicator certification program. The State Plan identifies the MN CES as a primary cooperating agency, and as such, includes a training plan with an estimate of funds needed to carry out proposed training activities under the certification program. However, the Agency determined the adequacy of funding needed to conduct the certification program based only upon funding data provided by the lead agency.

The Minnesota State Plan subcategorizes commercial applicators engaged in Agricultural Pest Control-Plant into a) Herbicide and b) Insecticides-Fungicides. The National Canners Association commented that commercial applicators who apply nematocides would not be covered by either of Minnesota's Agricultural Pest Control subcategories. Minnesota proposes to certify such applicators under the Insecticides-Fungicides subcategory, even though the subcategory title does not include the word "Nematocide".

Minnesota proposes to establish a Food Manufacturing and Processing Pest Control subcategory under Category 7, Industrial, Institutional, Structural, and Health Related Pest Control. Orkin commented that this subcategory is based upon type of business which may require use of restricted use pesticides. Therefore, before structural pest control applicators could use restricted use pesticides in food manufacturing and processing pest control, the applicator would be required to pass both Structural Pest Control and Food Manufacturing and Processing Pest Control examinations before becoming certified. The Minnesota State Plan states that structural pest control applicators, defined as persons engaged in structural pest control for hire, will be certified under the Structural Pest Control and/or Fumigation subcategories, and upon successful completion of the certification requirements, will be authorized to use or supervise the use of restricted use pesticides in food manufacturing and processing environments; the Food Manufacturing and Processing examination is not a requirement for certification. State-defined noncommercial applicators (commercial applicators not for hire) seeking certification in either Structural Pest Control, Fumigation, or Food Manufacturing and Processing Pest Control, are required to pass the appropriate subcategory examination before being certified. While EPA is aware that the Food Manufacturing and Processing Pest Control subcategory is limited to noncommercial applicators, the Agency also recognizes the need to certify certain pesticide applicators previously exempt from State licensing requirements. Because a large number of noncommercial applicators are involved in the food manufacturing and processing area, Minnesota desires to establish the new subcategory for certification purposes. This proposal is not inconsistent with the FIFRA or regulations promulgated thereunder.

The National Canners Association and Orkin commented on recertification procedures proposed in the Minnesota State Plan. National Canners commented that in addition to MN CES training programs, private applicators should have the option to become recertified by taking a written examination. Each time the private applicator purchases a restricted use pesticide, he/she must sign an attestation form, affirming that one of the certification options has been completed within the last three years. The attestation form identifies a written or oral examination. Therefore, a written examination is one of the recertification options available to the private applicator. Accordingly, the statement found in the second column (42 FR 11039) stating that private applicators will be required to participate in an approved training session every three years, should now read as follows: "For recertification, private applicators will be required to complete one of the certification options, except single purchase/single use, every three years." Orkin commented that Minnesota's procedures for recertifying structural pest control applicators are too stringent. Pursuant to implementing regulations under Section 4 of FIFRA, states must establish procedures to assure that certified applicators continue to meet the requirements of changing technology and in addition, assure a continuing level of competency and ability to use pesticides safely and properly. Further, under Section 24 of FIFRA, the states are given a great deal of flexibility in developing their individual programs provided those programs meet the prescribed Federal standards. This comment pertains to regulatory requirements established under State Law and addresses an issue which is not germane to the acceptability of the Plan under Federal regulations. The Agency has forwarded the comment to the Minnesota Department of Agriculture for consideration.

The MN CES has notified the Agency regarding a statement which appeared in the notice of intent to approve the State Plan. In the third column (42 FR 11038) the Agency states that private applicators must present their Private Applicator Training Card to the licensed dealer each time a restricted use pesticide is purchased. The MN CES pointed out that presentation of the training card it not required since the private applicator must sign the attestation form upon purchase. The Agency concurs with this comment. Accordingly, the word "must" is hereby replaced by the word "may".

It has been determined that the Minnesota State Plan will satisfy the requirements of the amended FIFRA and of 40 CFR Part 171, if the regulations described in the State Plan, which are necessary for its implementation, are promulgated by the Minnesota Department of Agriculture. This contingent approval shall expire October 21, 1977, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingent approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Minnesota State Plan as a result thereof.

EFFECTIVE DATE

Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553 (d), the Agency finds that there is good cause for providing that the contingent approval granted herein to the Minnesota State Plan shall be effective upon publication. Neither the Minnesota State Plan itself nor this Agency's contingent approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Minnesota. Delays in starting the work necessary to implement the Plan such as may be occasioned by providing some later effective date for this contingent approval are inconsistent with the public interest. Accordingly, this con-

tingent approval shall become effective immediately.

Dated: May 4, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator,
Region V.

[FR Doc.77-14490 Filed 5-20-77;8:45 am]

[FRL 731-6; OPP-50299]

ZOECON CORP. AND MOBAY CHEMICAL CORP.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 20954-EUP-8. Zoecon Corporation, Palo Alto, California 94304. This experimental use permit allows the use of 975 pounds of the insecticide hexadecyl cyclopropanecarboxylate on cotton to evaluate control of spider mites. A total of 150 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from April 19, 1977, to April 19, 1978. This permit is being issued for use on cotton grown for seed purposes only.

No. 3125-EUP-136. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 381 pounds of the nematicide Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate on apples, cherries, and peaches to evaluate control of nematodes. The experimental use permit is effective from April 11, 1977, to April 11, 1978.

No. 3125-EUP-137. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 381 pounds of the nematicide Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate on apples, cherries, and peaches to evaluate control of nematodes. A total of 152 acres is involved for both this permit and the one above; the programs are authorized only in the States of California, Connecticut, New Hampshire, New Jersey, New York, Maine, Michigan, Pennsylvania, Rhode Island, and Vermont. This experimental use permit is also effective from April 11, 1977, to April 11, 1978. The permits will use the same active ingredients, but different formulations. A temporary tolerance for residues of the active ingredients in or on apples, cherries, and peaches has been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.)).)

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-14485 Filed 5-20-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-347]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

MAY 16, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d) (1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES:

The following Teleprompter Corporation applications are requesting modification of licenses to permit the reception of signals from stations: WTCG-TV, Channel 17, Atlanta, Georgia, WYAH-TV, Channel 27, Portsmouth, Virginia, and the programming of the Spanish International Communications Corporation, Miami, Florida.

350-DSE-ML-77 KB50, Eugene, Oregon.
351-DSE-ML-77 KB51, Tacoma, Washington.
352-DSE-ML-77 KB55, Dubuque, Iowa.
353-DSE-ML-77 KB56, Rochester, Minnesota.
354-DST-ML-77 KB54, Great Falls, Montana.
355-DSE-ML-77 KB63, Santa Cruz, California.
356-DSE-ML-77 KSB69, Missoula, Montana.
357-DSE-ML-77 KB72, El Paso, Texas.
358-DSE-ML-77 KB79, Pocatello, Idaho.
359-DSE-ML-77 KB80, Lewiston, Idaho.
360-DSE-ML-77 KB81, Reno, Nevada.
361-DSE-ML-77 KB84, Santa Maria, California.
362-DSE-ML-77 KD39, Muscoy, California.
363-DSE-ML-77 KD77, Kalispell, Montana.
364-DSE-ML-77 WB47, Fairmont, West Virginia.
365-DSE-ML-77 WB49, Tuscaloosa, Alabama.
366-DSE-ML-77 WB52, Gadsden, Alabama.
367-DSE-ML-77 WB54, Rock Island, Nebraska.
368-DSE-ML-77 WB62, South Shore, Kentucky.
369-DSE-ML-77 WB63, Florence, Alabama.
370-DSE-ML-77 WB73, Huntsville, Alabama.
371-DSE-ML-77 WB93, Danbury, Connecticut.
374-DSE-77 Telecable of Overland Park, Inc. (KB75), Overland Park Kansas. Modification of license to permit the reception of signals from station: WYAH-TV, Channel 27, Portsmouth, Virginia.
375-DSE-ML-77 Teleprompter Corporation (WB57), West Palm Beach, Florida. Modification of license to: (1) delete paragraph 6.D, of the stations pending license which prohibits the use of this station facility on a shared cost-sharing basis and (2) to permit the reception of signals from stations: WTCG-TV, Channel 17, Atlanta, Georgia, WYAH-TV, Channel 27, Portsmouth, Virginia, and the programming of the Spanish International Communications Corporation in Miami, Florida.
376-DSE-P/L-77 International Telemeter Corp. and Columbia Cablevision d.b.a. Atco Missouri Earth Station, a joint enterprise, Columbia, Missouri. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°57'-43", Long. 92°16'27". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.
377-DSE-P/L-77 Teleservice Corp. of America, De Ridder, Louisiana. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°52'-09". Long. 93°17'20". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.
379-DSE-P/L-77 Teleprompter Corporation, Greenwood, South Carolina. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°11'-52", Long. 82°05'27". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
380-DSE-P/L-77 Teleprompter Corporation, Dothan, Alabama. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°14'30", Long. 85°21'10". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
381-DSE-P/L-77 Teleprompter Corporation, Wenatchee, Washington. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 47°25'-08", Long. 120°18'28". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
382-DSE-P/L-77 Teleprompter Corporation, Ironwood, Michigan. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°28' 45", Long. 90°08'51". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
383-DSE-P/L-77 Teleprompter Corporation, Palestine, Texas. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°46' 55", Long. 95°38'26". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
384-DSE-ML-77 Houma Cablevision (KD81), Houma, Louisiana. Modification of license to permit the reception of signals from station WYAH-TV, Channel 27, Portsmouth, Virginia.
385-DSE-ML-77 Al-Pine Cablevision, Inc. (KD43), Alexandria, Louisiana. Modification of license to permit the reception of signals from station WYAH-TV, Channel 27, Portsmouth, Virginia.

386-DSE-P-77 University of Georgia, Athens, Georgia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°56'41", Long. 83° 22'39". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

387-DSE-P-77 Washburn University of Topeka, Topeka, Kansas. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°03' 50", Long. 95°45'58". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

388-DSE-P-77 West Virginia Board of Regents, Morgantown, West Virginia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°38'49", Long. 79°58'30". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

389-DSE-ML-77 Nilcom, Inc. (WB67), Belvidere, Illinois. Modification of license to permit the shared use of this station's facilities with a non-affiliated cable system.

SSA-8-77 Western Union Telegraph Company, Glenwood, New Jersey/McLean, Virginia. Special temporary authority to continue an ongoing developmental program consisting of radio transmission tests and demonstrations to document the feasibility of utilizing small aperture receive-only terminals as an integral segment of domestic communications satellite system operations.

[FR Doc.77-14538 Filed 5-20-77;8:45 am]

PURAC TASK ON PERSONAL USE RADIO COMMUNICATIONS NEEDS

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC task investigating personal use radio communications needs will meet June 9, 1977, at 10 a.m. in Room 7317 of the offices of the Federal Communications Commission at 2025 M Street NW., Washington, D.C. 20554. The agenda for this meeting will be to review the progress of the task to date, and to begin formalizing the findings of the group for presentation to the full PURAC.

This meeting is open to the public, however, facilities are limited and priority seating will be given to members of PURAC. For more information, contact Mr. Ted Andros, Hy-Gain de Puerto Rico, Inc., 1320 South Dixie Highway, Suite 950, Coral Gables, Florida 33146 (305-661-6161).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14537 Filed 5-20-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Major Fuel Burning Installations; Change in Schedule for Public Hearing in Boston, Mass.

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Friday, May 13, 1977, that FEA has issued a "Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations" and would hold a hearing on the notice of intention on May 24, 1977, in Boston, Massachusetts.

This notice is to inform persons interested in that notice of intention that the hearing will be held instead on June 3, 1977, in Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, beginning at 9 a.m.

Consequently the revised schedule for public hearings on the above-mentioned notice of intention is as follows:

June 3—Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, at 9 a.m.

Issued in Washington, D.C., on May 18, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14510 Filed 5-20-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; Change in Schedule for Public Hearing in Boston, Mass.

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Friday, May 13, 1977, that FEA has issued a "Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations" and would hold a hearing on the notice of intention on May 24, 1977, in Boston, Massachusetts.

This notice is to inform persons interested in that notice of intention that the hearing will be held instead on June 3, 1977, in Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, beginning at 9 a.m.

Consequently the revised schedule for public hearings on the above-mentioned notice of intention is as follows:

June 3—Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, at 9 a.m.

Issued in Washington, D.C., on May 18, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14512 Filed 5-20-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact Re Nebraska Public Power District Sheldon Generating Station, Powerplants 1 and 2

Pursuant to 10 CFR 208.4 and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Nebraska Public Power District's Sheldon Generating Station, powerplants 1 and 2.

On June 30, 1975, the FEA issued a prohibition order to the above-listed powerplants which prohibited the powerplants from burning natural gas or petroleum products as their primary energy source. The prohibition order provided, however, that in accordance with the requirements of 10 CFR Part 303 and 305, the order would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the particular powerplants will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119 (d)(1)(B) of the Clean Air Act is the earliest date that the particular powerplants will be able to comply with all applicable air pollution requirements under section 119 of that Act; and until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 305.9, and has served the powerplants the Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b), and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined it is clear that issuance of a Notice of Effectiveness for the prohibition order to the above listed powerplants is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c) FEA has determined that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Interested persons are invited to submit data, views, or arguments with respect to the negative determination and the associated environmental assessment to Executive Communications, Box MR, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to Nebraska Public Power District's Sheldon Generating Station, Powerplants 1 and 2." Fifteen copies should be submitted on or before June 13, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data

and to treat it according to that determination.

Issued in Washington, D.C. on May 17, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-14513 Filed 5-20-77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT INTERNATIONAL ENERGY PROGRAM

Approval by the Administrator of the Federal Energy Administration and the Attorney General of the Industry Supply Advisory Group (ISAG)

Pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, the membership of certain U.S. companies in the Industry Supply Advisory Group (ISAG) has been approved by the Administrator of the Federal Energy Administration and the Attorney General. The text of the letter from the Attorney General to the Administrator, FEA, dated April 6, 1977, is set out as Appendix A, and the text of the letter from the Administrator, FEA, to the relevant member companies dated May 2, 1977, is set out as Appendix B.

Issued in Washington, D.C., May 17, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A

LETTER OF THE ATTORNEY GENERAL TO THE ADMINISTRATOR OF FEA DATED APRIL 6, 1977

This is in response to your letter, dated February 18, 1977, which requests my approval for certain U.S. oil companies to become members of a new industry group created by the International Energy Agency (IEA), which is to be called the Industry Supply Advisory Group (ISAG). My approval is requested pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program.

The IEA has established an emergency management organization to administer its international oil sharing program in the event of an emergency. An integral part of the organiaztion is an Industry Supply Advisory Group (ISAG) which would work at IEA headquarters with the IEA Allocation Coordinator and his staff in implementing the allocation procedures in the IEA Emergency Management Manual. In general, under the guidance and supervision of the Allocation Coordinator, the ISAG would make industry supply expertise available to the IEA. From among the voluntary allocation actions proposed by the 31 IEA-desig-best balance each of the 19 IEA member Finally, it would assist the Allocation Coordi-tor's approval those actions which would best balance each of the 19 IEA member countries' allocation rights and obligations. Finally, it would assist the Allocation Coordinator in evaluating allocation actions and the possible need for further actions.

To do its work most effectively the group has been organized into three subgroups under an ISAG Manager. A Supply Coordination Group, consisting of a head and eight assistants, would be responsible for the evaluation and selection of Reporting Company voluntary offers. A Country Supply Group comprising a head and five assistants would advise on the effect of proposed reallocation actions on individual IEA member countries. Finally, a four-member Supply Analysis Group would conduct supporting studies relating to the reallocation effort.

The ISAG would not be a continuously active group. As its functions indicate, it would be convened only during an actual emergency or for further tests of the IEA's emergency allocation system. Apart from this it would meet only for organizational or preliminary planning sessions.

The IEA has now formally requested 19 of the 31 Reporting Companies to make available individuals from their staffs to serve on ISAG. Gulf Oil Corp. has been invited to serve as ISAG Manager, responsible for the overall supervision and guidance of the ISAG staff in its emergency allocation work. The British Petroleum Co., Ltd. has been asked to head the Supply Coordination Group, with a membership of Ashland Oil, Inc., Continental Oil Co., Ente Nazionale Idrocarburi (ENI), Exxon Corp., Mobil Oil Corp., Phillips Petroleum Co., Shell International Petroleum Co., Ltd., and Standard Oil Co. (Indiana). VEBA, AG has been designated as head of the Country Supply Group, which would include Axel Johnson & Co. AB, OeMV Aktiengesellschaft, Texaco, Inc., Standard Oil Company of Ohio, and a representative of the Petroleum Company of Ohio, and a representative of the Petroleum Association of Japan. Finally, Standard Oil Company of California has been invited to head the Supply Analysis Group, with Occidental Petroleum Corp. and Shell Oil Co. as members. One company for this subgroup has not yet been designated. Since twelve of these firms are U.S. oil company participants in the Voluntary Agreement, you have requested my approval of their acceptance of membership in ISAG.

The Department of Justice has consistently favored as broad a representation as practicable on industry groups serving the IEA. We note that nineteen separate companies are to serve on ISAG and that the twenty presently-slated positions are to include at least twelve of the twenty-one U.S. company participants. Moreover, every company which had earlier expressed an interest in serving on ISAG was invited to do so by the IEA. None was denied the opportunity to participate. Accordingly, pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, I hereby give my approval to acceptance of membership on the IEA's Industry Supply Advisory Group by Gulf Oil Corp., Ashland Oil, Inc., Continental Oil Co., Exxon Corp., Mobil Oil Corp., Phillips Petroleum Co., Standard Oil Co. (Indiana), Texaco, Inc., Standard Oil Company of Ohio, Standard Oil Company of California, Occidental Petroleum Corp. and Shell Oil Co. This approval also covers each firm's membership on the appropriate ISAG subgroup as set forth above.

APPENDIX B

LETTER OF THE ADMINISTRATOR OF FEA TO MEMBER COMPANIES DATED MAY 2, 1977

The International Energy Agency (IEA) has requested that your company accept membership in the Industry Supply Advisory Group (ISAG) created by the IEA as an integral part of its emergency management organization. Pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, in your letter of January 14, 1977, you requested my approval of your accepting the IEA invitation.

It is anticipated that the ISAG will be activated by the IEA as soon as possible after a finding has been made that an international energy supply emergency in fact exists. Prior to an actual emergency, the ISAG may convene to assist the IEA in certain planning functions including further testing of the IEA's emergency allocation system.

Composed of oil industry supply experts chosen from among the 31 IEA designated Reporting Companies, the ISAG will work under the guidance and supervision of the IEA Allocation Coordinator and will:

1. Make industry supply expertise available to the IEA;

2. Evaluate and select from among voluntary allocation actions proposed by the Reporting Companies those actions which will best balance each of the 19 IEA member countries' allocation rights and obligations; and

3. Assist the IEA Allocation Coordinator in evaluating allocation actions and the possible need for further actions.

To perform these functions as effectively as possible, the ISAG has been organized into three subgroups so that its members may concentrate attention on particular emergency allocation activities:

A Supply Coordination Group, responsible for the evaluation and selection of Reporting Company voluntary offers;

A Country Supply Group, responsible for advising the IEA on the effect of proposed reallocation actions on individual IEA member countries; and

A Supply Analysis Group, responsible for the conduct of supporting studies relating to the reallocation effort.

These three subgroups will carry out their responsibilities under an ISAG manager who will have responsibility for providing the overall supervision of and guidance to the ISAG and its three subgroups. The establishment of the ISAG is a critical step in the development of an effective system for dealing with possible future supply emergencies.

Pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, I hereby approve your membership on the Industry Supply Advisory Group of the IEA and your membership in the [Supply Coordination Group, Country Supply Group, Supply Analysis Group].

A copy of the letter from the Attorney General reflecting his approval, as required by the Voluntary Agreement, is enclosed.

[FR Doc.77-14500 Filed 5-20-77;8:45 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CLOSED COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 2, 1977.
Thursday, June 9, 1977.
Thursday, June 16, 1977.
Thursday, June 23, 1977.
Thursday, June 30, 1977.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Fed-

eral blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in section 5347 of the Prevailing Rate Act of 1972 (Pub. L. 92–392).

The Committee's primary responsibility is to review the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the Committee will consider proposed plans for implementation of the Prevailing Rate Act of 1972 (Pub. L. 92–392), which Law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C., section 552b(c)(9)(B), that the closing is necessary in order to provide this labor-management Committee with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

Summary minutes of these meetings will be made available to the public, upon written request to the Committee Secretary, after the pay policy issues discussed at these meetings have been finalized by Civil Service Commission action. Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committeee, Room 1338, 1900 E Street NW., Washington, D.C. 20415 (202–632–9710).

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

MAY 17, 1977.

[FR Doc.77–14495 Filed 5–20–77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 18]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending April 30, 1977

ACTIONS OF THE BOARD

Regulation B, interpretations that (1) clarify when notices to borrowers required by State law should be considered inconsistent with the requirements of the Equal Credit Opportunity Act, and (2) state that translation of notices and procedures under ECOA into Spanish (or other foreign language) does not discriminate against borrowers who use another language (Docket No. R–0097).

Regulation Y, proposed rulemaking relating to providing management consulting advice (Docket No. R–0051).

Regulation T amendment, to permit a minor easing of the Board's rules for calculating the margin required on a "straddle" transaction—where both a put and a call in the same stock are held in the customer's account (Docket No. R–0004).

Regulation T, proposed amendment to the rule governing credit to exchange specialists, comments must be received on or before May 31, 1977 (Docket No. R–0054).

Issuance of subordinated capital notes by The Friendship State Bank, Friendship, Indiana.

Deposit Guaranty National Bank, Jackson, Mississippi, proposed merger with Southern National Bank of Hattiesburg, Hattiesburg, Mississippi, report to the Comptroller of the Currency on competitive factors.

First National Boston Corporation, Boston, Massachusetts, extension of time to August 10, 1977, within which to acquire 100 percent of the voting shares of The First National Bank of Yarmouth, Massachusetts.[1]

Westland Banks, Inc., Lakewood, Colorado, extension of time from May 11, 1977 to August 11, 1977, within which to consummate the acquisition of Westland Bank of Lakewood, Lakewood, Colorado.[1]

Westland Banks, Inc., Lakewood, Colorado, extension of time from May 11, 1977 to August 11, 1977, within which to consummate the acquisition of Westland National Bank South, Longmont, Colorado.[1]

Crowell State Bank, Crowell, Texas, to make an investment in bank premises.[1]

Chemical Bank and Trust Company, Midland, Michigan, extension of time to December 6, 1977, within which to establish a branch at 3400 East Isabella Road, Midland, Michigan.[1]

United California Bank, Los Angeles, California, extension of time to December 8, 1977, within which to establish an office in the vicinity of the intersection of First Street and Herndon Avenue, City of Fresno, California.[1]

Commerce Bank of Lebanon, Lebanon, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

Commerce Bank of Moberly, Moberly, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

Commerce Bank of St. Charles, St. Charles, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

Comerce Bank of Tipton, Tipton, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

New City National Bank, Austin, Texas, proposed merger with City National Bank of Austin, Austin, Texas, report to the Comptroller of the Currency on competitive factors.[1]

Southeast Bank of Naples, N.A., Naples, Florida, proposed merger with Southeast National Bank of Naples, Naples, Florida, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Cleveland Trust Company, Cleveland, Ohio. Branch to be established at Superior Avenue and East 105th Street, Cleveland, Cuyahoga County.[2]

Citizens Commercial Bank of Tallahassee, Tallahassee, Florida. Branch to be established at the corner of Madison Street on the North, Gaines Street on the South, Boulevard Street on the East and Macomb on the West, Tallahassee.[2]

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

First National Bank of Boston: Branch—Three Branches in Montevideo, Uruguay.

* * * * *

Thirty-Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

APPROVED

The First National Bank of Chicago: Branch—Additional in Munich, Germany.

Continental Illinois National Bank & Trust Company of Chicago, Chicago: Branch—Additional in Dusseldorf, Federal Republic of Germany. (Correction for H. 2, No. 14 p. 3.)

International Investments and Other Actions 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.

APPROVED

Bankers International Corporation: Investment—to acquire indirectly 100 percent of the shares of B.T. Foreign Investment Corporation, a Delaware Corporation.

First Dallas International Banking Corporation: To amend Articles of Association by changing its name to "First International Banking Corporation" and move its home office from Dallas to Houston.

Citibank, National Association, New York: Continue to hold shares of National and Grindlays Bank, London, after the latter establishes an agency in New York City. (Correction for H. 2, No. 12, p. 3.)

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Bendena Bancshares, Inc., Bendena, Kansas, for approval to acquire 92 percent of the voting shares of The Bendena State Bank, Bendena, Kansas.[2]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

APPROVED

American Bankcorp, Inc., Lansing, Michigan, for approval to acquire 80 percent or more of the voting shares of The Muskegon Bank & Trust Company, Muskegon, Michigan.

Western Michigan Corporation, Niles, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Cassopolis, Cassopolis, Michigan.

Banker Agency, Inc., Mohall, North Dakota, for approval to acquire an additional 56 per cent of the voting shares of The Citizens State Bank at Mohall, Mohall, North Dakota.

DENIED

Country Bank Shares Corporation, Janesville, Wisconsin, for approval to acquire 72.8 percent of the voting shares of State Bank of Argyle, Argyle, Wisconsin.

Texas Commerce Bancshares, Inc., Houston, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bexar County National Bank of San Antonio, San Antonio, Texas.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Worcester Bancorp, Inc., Worcester, Massachusetts, for approval to engage in providing management consulting advice to nonaffiliated savings banks through Empire Group, Inc., Worcester, Massachusetts.

DELAYED

Sun Banks of Florida, Inc., Orlando, Florida, 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 and servicing loans and other extensions of credit for any person) at 120 South Ridgewood Avenue, Daytona Beach, Florida, through a subsidiary, Sunbank Mortgage Company (April 29, 1977).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property and casualty insurance) at 2025 Gateway Place, San Jose, California, through its subsidiary, Security Pacific Finance Corp. (April 26, 1977).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property and casualty insurance) at Upland Office Center, 600 N. Mountain Avenue, Upland, California, through its subsidiary, Security Pacific Finance Corp. (April 26, 1977).[3]

PERMITTED

Citibanc Group, Inc., Alexander City, Alabama, notification of intent to engage in de novo activities (the business of acting as agent or broker for the sale of credit life/accident and health insurance directly related to extensions of credit by the bank holding company and for its bank and non-banking subsidiaries) at Covington County Bank, Andalusia; City Bank of Goodwater, Goodwater; City Bank of Lineville, Lineville; City Bank of Tuskegee, Tuskegee; City Bank of Roanoke, Roanoke; Peoples Bank, Anniston; and Citibanc Group, Inc., Alexander City, all located in Alabama (April 27, 1977).[3]

The Fulton National Corporation, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account loans secured by real estate and other loans and extensions of credit; and the sale of credit life insurance) at 6540 Powers Ferry Road, Atlanta, Georgia, through a subsidiary, FNC Financial Corporation (April 30, 1977).[3]

U.S. Bancorp, Portland, Oregon, notification of intent to engage in de novo activities (making, acquiring, and servicing of loans and other extensions of credit either secured or unsecured for its own account or for the account of others including the making of consumer installment loans, purchasing consumer installment and real estate sales finance contracts and evidences of debt, making consumer home equity loans secured by real estate, making industrial loans; and acting as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by U.S. Creditcorp) at 32 Oakway Mall, Eugene, Oregon, through its subsidiary, U.S. Creditcorp April 24, 1977.[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c) (12) of the Bank Holding Company Act of 1956.

PERMITTED

Arkansas Best Corporation, Fort Smith, Arkansas, through its wholly-owned subsidiary, Arkansas-Best Freight Systems, Inc., Fort Smith, Arkansas, to acquire certain operating rights from Western Gillette, Inc., a California Corporation based in Los Angeles April 29, 1977.[3]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Manufacturers Hanover Trust Company/Central N.Y., Ontario, N.Y. Branch to be established in the Wegmans Store, 1750 East Avenue, City of Rochester, Monroe County.

Iron and Glass Bank, Pittsburgh, Pennsylvania. Branch to be established near the Century III Shopping Mall, Lebanon Church Road and Pa. Route 885, West Mifflin Borough, Allegheny County.

The Andover Bank, Andover, Ohio. Branch to be established at 316 Broad Street, Conneaut, Ashtabula County.

Union Trust Company of Maryland, Baltimore, Maryland. Branch to be established at the intersection of Fairmont Avenue and York Road, Towson, Baltimore County.

Peoples State Bank of East Tawas, Michigan. Branch to be established at 1700 East Huron Road (U.S. 23), unincorporated village of Baldwin Center, Baldwin Township, Iosco County.

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

First International Bank in Houston, NA: Branch—George Town, Grand Cayman, Cayman Islands.

Bank of California NA: Branch—Manila, Philippines.

Citibank, National Association, New York: Branch—Tunis, Tunisia. (Originally omitted from H.2., No. 8.)

Citibank, National Association, New York: Branch—Victoria, Seychelles. (Correction for H.2, No. 10 p. 8.)

To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

Piedmont Bankgroup Incorporated, Martinsville, Virginia, for approval to acquire 100 percent of the voting shares of the successors by merger to Piedmont Trust Bank, Collinsville, Virginia and Bank of Carroll, Hillsville, Virginia.

Southern Bank Holding Company, Savannah, Georgia, for approval to acquire 60 percent or more of the voting shares of Southern Bank and Trust Company, Savannah, Georgia.

KSB Ltd., Keokuk, Iowa, for approval to acquire 80 percent or more of the voting shares of Keokuk Savings Bank and Trust Company, Keokuk, Iowa.

Packwood Financial, Inc., Packwood, Iowa, for approval to acquire 73.7 percent or more of the voting shares of Farmers Savings Bank, Packwood, Iowa.

2nd Charter Financial Corporation, Albion, Indiana, for approval to retain 87.6 percent of the voting shares of The Albion National Bank, Albion, Indiana.

First Northern Bancorporation, Anchorage, Alaska, for approval to acquire 81 percent of the voting shares of The First National Bank of Fairbanks, Fairbanks, Alaska.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, for approval to acquire 51 percent or more of the voting shares of First State Bank, Bedford, Texas.

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

Winters National Corporation, Dayton, Ohio, for approval to acquire all of the outstanding shares of Mead Financial Services, Inc., Dayton, Ohio (engaged in leasing real and personal property, or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonable anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property).

Sun Banks of Florida, Inc., Orlando, Florida, 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 and servicing loans and other extensions of credit for any person) at 1501 N.E. 26th Street, Wilton Manors (Fort Lauderdale), Florida, through a subsidiary, Sunbank Mortgage Company (April 28, 1977).[3]

National Detroit Corporation, Detroit, Michigan, for approval to acquire certain assets of Grand Traverse Mortgage Company, Inc., Traverse City, Michigan (engaged in making, acquiring and servicing, for its own account and for the account of others, mortgage loans and other extensions of credit in connection with the purchase, development and/or improvement of real property).

Guaranty Loan and Investment Corporation of Tulsa, Inc., Tulsa, Oklahoma, notification of intent to engage in de novo activities (industrial banking, including the issuance of thrift certificates and the extension of credit secured by first and second real estate mortgages and durable consumer goods) at 7021 South Memorial Drive, Tulsa, Oklahoma, through a subsidiary, Western Trust & Savings Company (April 27, 1977).[3]

[3] 4(c) (8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Old National Bancorporation, Spokane, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans or other extensions of credit secured by real estate mortgages or deeds of trust and the servicing of such loans and such other activities as are incidental to the operations of a mortgage company including, but not limited to; acting as agent or broker for the sale of mortgage redemption life and disability insurance to be issued in connection with making or acquiring such loans) at 611 Sherman Avenue, Coeur d'Alene, Idaho, 302 Thain Road, Lewiston, Idaho, and 1452 Hudson Street, Longview, Washington, through its subsidary, Bancshares Mortgage Company (April 28, 1977.)[3]

Old National Bancorporation, Spokane, Washington, notification of intent to engage in de novo activities (serving as an escrow or closing agent in connection with closing of real estate loans financed by credit extending subsidiaries of Old National Bancorporation) at 611 Sherman Avenue, Coeur d'Alene, Idaho, 302 Thain Road, Lewiston, Idaho, and 1452 Hudson Street, Longview, Washington, through its subsidiary, Cascade Escrow Company (April 25, 1977.)[3].

Security Pacific Corporation, Los Angeles, 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 extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at 2025 Gateway Place, San Jose, California, through its subsidiary, Security Pacific Finance Corp. (April 20, 1977.)[3]

Security Pacific Corporation, Los Angeles, 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 extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at Upland Office Center, 600 N. Mountain Avenue, Upland, California, through its subsidiary, Security Pacific Finance Corp. (April 20, 1977.)[3]

U.S. Bancorp, Portland, Oregon, notification of intent to engage in de novo activities (making, acquiring, and servicing of loans and other forms of credit and financing either secured or unsecured for its own account or for the account of others, including commercial, industrial, agricultural, and personal loans of all types, financial leases, sales contracts, accounts receivable, and equity loans secured by real estate, leasing of personal property and equipment, and acting as agent, broker, or adviser in the leasing of such property or the making of such loans; and acting as insurance agent or broker with regard to credit life and disability insurance relating only to said extensions of such credit as made by this corporation) at 309 S.W. Sixth Avenue, Portland, Oregon, through its subsidiary, U.S. Commercial Corp. (April 25, 1977).[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c) (12) of the Bank Holding Company Act of 1956.

Warner Communications Inc., New York, New York, notification of intent to merge with or acquire 27 percent of common stock of Knickerbocker Toy Co. Inc., Middlesex, New Jersey (April 28, 1977).[3]

* * * * *

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

The Chardon Savings Bank Company, Chardon, Ohio.

Commonwealth Bank & Trust Company of Virginia, Sterling, Virginia.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, May 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14481 Filed 5-20-77;8:45 am]

CENTRAL BANCORPORATION, INC.

Acquisition of Bank

The Central Bancorporation, Cincinnati, Ohio, 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 of the voting shares of the successor by merger to First National Bank of Mercer County, Celina, Ohio. 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 Cleveland. 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 June 17. 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14478 Filed 5-20-77;8:45 am]

MIDLAND CAPITAL CO.

Formation of Bank Holding Company

Midland Capital Co., Oklahoma City, 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 of the voting shares, less directors' qualifying shares, of Northwest Bank, Oklahoma City, 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)).

Midland Capital Co., Oklahoma City, Oklahoma, has also applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y (12 CFR 225.4(b) (2)), for permission to acquire voting shares of Midland Mortgage Co., Oklahoma City, Oklahoma, and its subsidiary, Johnston Records Co., Oklahoma City, Oklahoma. Notice of the application was published on April 20, 1977, in the San Antonio Light, San Antonio, Texas, and on April 21, 1977, in the following newspapers: Arizona Daily Star, Tucson, Arizona; Broken Arrow Ledger, Broken Arrow, Oklahoma; the Canon City Daily Record, Canon City, Colorado; Colorado Springs Gazette Telegraph, Colorado Spring, Colorado; the Colorado Springs Sun, Colorado Springs, Colorado; Daily Oklahoman, Oklahoma County, Oklahoma; the Houston Post, Houston, Texas; Lawton Constitution, Lawton, Oklahoma; the Pueblo Chieftain, Pueblo, Colorado; the Rocky Mountain News, Denver, Colorado; Tulsa World, Tulsa, Oklahoma; the Tustin News, Tustin, California; West Prescott Courier, Prescott, Arizona. On April 22, 1977, notice was published in the Arizona Republic, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking including originating and servicing all types of residential and commercial mortgage loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and re-

[3] 4(c) (8) and 4(c) (12) notifications processed by 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.

ceived by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 14, 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14479 Filed 5-20-77;8:45 am]

UNITED BANKS CORP.

Formation of Bank Holding Company

United Banks Corporation, Hanover, New Hampshire, 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 Hanover Bank & Trust Company, Hanover, New Hampshire, and 100 percent of the voting shares, less directors' qualifying shares, of Lebanon Bank & Trust Company, Lebanon, New Hampshire. 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 Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 14, 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14480 Filed 5-20-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 17, 1977. 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 the 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 FEA request 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 request, comments (in triplicate) must be received on or before June 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

FEA requests an extension on change clearance of Form FEA-P328-Q-0, Foreign Crude Oil Cost Report. This is an existing quarterly report to collect detailed information on crude oil acquisition costs for the foreign trading affiliates of United States companies. The FEA-P328-Q-0 is a mandatory report under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Energy Policy and Coordination Act of 1975 (Pub. L. 94-163). FEA estimates respondents to number approximately 16 firms which acquire 100,000 barrels of crude oil per day from non-IEA countries and reporting burden to be 10 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-14530 Filed 5-20-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 6, from 11 a.m. June 8 through June 10, 1977, Room 181, Federal Building, 1500 East Bannister Road, Kansas City, Missouri. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following proposed projects: (1) Alterations, Federal Building, 1500 E. Bannister Road, Kansas City, Missouri; and (2) three supplemental one-year term contracts, two in the state of Missouri and one in the state of Iowa. The meeting will be open to the public.

H. D. HARVELL,
Regional Administrator.

[FR Doc.77-14528 Filed 5-20-77;8:45 am]

[Intervention Notice No. 31; Application No. 57032]

SOUTHERN CALIFORNIA GAS CO. AND CALIFORNIA PUBLIC UTILITIES COMMISSION

Proposed Intervention in Utility Rate Application

The General Services Administration seeks to intervene in a proceeding before the California Public Utilities Commission concerning an application (Application No. 57032) of the Southern California Gas Company for authority to engage in a solar demonstration project and to include in its rates the amount necessary to fund a solar energy program. GSA represents the interests of the executive agencies of the United States Government, as users of gas utility services.

The Southern California Gas Company estimates the venture capital for the program to be more than $10 million which it proposes to raise through a 0.033-cent per therm surcharge on all retail gas sales. There remain many questions about the safeguards and possible rewards this program will bring to the ratepayer.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before June 22, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481 (a)(4).)

Dated: May 10, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-14511 Filed 5-20-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1977:

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

DATE: June 22-24, 9 a.m.

PLACE: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

OPEN: June 22, 9-9:30 a.m.

CLOSED: Otherwise.

CONTACT:

Helen Pohlenz, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301-443-3855).

PURPOSE: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National

Advisory Mental Health Council for final review.

AGENDA: From 9–9:30 a.m., June 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301–443–3600).

Dated: May 17, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77–14491 Filed 5–20–77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Schedule and Proposed Agenda

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy and Practices, Legislation, Program and Public Information Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). This document is intended to notify the general public of their opportunity to attend.

DATES: June 8, 7:00 to 10:00 p.m. and June 9, 10, 11, 1977, 8:30 a.m. to 5:30 p.m.

ADDRESS: June 8, Copley Plaza Hotel, Back Bay Room, June 9, 10, 11, Massachusetts State Department of Education, 31 Saint James Avenue, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Kathy Maurer, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W. No. 821, Washington, D.C. 20036, 202–382–3862.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93–380, section 408(f)(1). The Council is mandated to (a) Advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) Advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) Make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93–380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation: (d) Make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) Develop criteria for the establishment of program priorities; and (f) Disseminate information concerning its activities under section 408 of Pub. L. 93–380.

Under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), and clauses (2) and (6) of subsection (c) of section 552b of Title 5 of the United States Code, the 8:30 a.m. to 12:30 p.m. session of the Council on June 9, 1977 will be closed to the public. Closure of this section of the Council meeting is to allow a free and frank discussion of internal personnel matters. To discuss such matters in open meeting would constitute a "clearly unwarranted invasion of personal privacy," which is exempt from disclosure under 5 U.S.C. (c)(6). The remainder of the Council meeting, from 8:30 a.m. to 5:30 p.m. on June 10, and from 8:30 a.m. to 1:00 p.m. on June 11, will be open to the public. The agenda will include (1) Election of officers, (2) Executive Director's Report, (3) Committee reports and action recommendations; and (4) Presentations from a local project funded by the Women's Educational Equity Act and from others.

The meetings of the committees will take place from 1:30 p.m. to 5:30 p.m. on June 9, 1977, except the Public Information Committee which will meet from 12:00 to 1:30 p.m. on June 10, 1977. All committee meetings will be open to the public. The agenda for the Executive Committee will include preparation for the Council meeting. The agenda for the Federal Policy and Practices Committee will include discussion of the Council's review of the Education Division of HEW. The agenda for the Legislation Committee will include discussion of current legislation affecting women. The agenda for the Program Committee will include the Council's evaluation of the Women's Educational Equity Act Program. The agenda for the Public Information Committee will include development of criteria for selection of topics and participants in the Council's public sessions.

Records will be kept of all Council proceedings and will be available for public inspection at the Council offices at Suite 821, 1832 M Street, N.W., Washington, D.C.

Signed at Washington, D.C. on May 18, 1977.

JOY R. SIMONSON,
Executive Director.

[FR Doc.77–14548 Filed 5–20–77;8:45 am]

Health Resources Administration

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT, 1976

U.S. Citizen Foreign Medical Student Transfer Under Capitation Requirements

Effective October 1, 1977, section 502 of Public Law 94–484 (Health Professions Educational Assistance Act of 1976, October 12, 1976) amends the authority for making annual grants (called capitation grants) to health professions schools for the support of their educational programs. Under this authority, health professions schools must meet certain requirements in order to receive capitation grants. Among other things, a medical school applying for a grant must, in its application, provide assurances satisfactory to the Secretary that it will reserve positions for eligible United States foreign medical students in the school year beginning immediately before the fiscal year for which the grant is applied for, i.e., academic year 1978–79. Assurances must also be given for academic years 1979–80 and 1980–81 if the medical school is to be eligible for grants from fiscal year 1979 and fiscal year 1980 funds, respectively.

Since the passage of Public Law 94–484, there has been much public interest concerning the Department's plans to administer this provision. This Notice sets forth the general manner in which the Department intends to do so.

1. United States citizens who wish to be considered for transfer under this program in academic year 1978–79, should send their names and addresses to:

International Programs Staff, Division of Medicine, BHM/HRA/DHEW, Federal Center Building No. 2, 4th Floor, 3700 East-West Highway, Hyattsville, Maryland 20782.

The procedures for making application will be described in application materials and will require completed applications to be received by the Division of Medicine, postmarked no later than August 1, 1977.

2. Citizens of the United States are eligible for consideration for transfer under this program if they:

(a) Were students in a foreign medical school before October 12, 1976,

(b) Have, by August 15, 1977, succesfully completed at least two years in a foreign medical school, and

(c) Have, by August 15, 1977, successfully completed Part I of the National Board of Medical Examiners' examina-

tion (or any successor to this examination).

3. All United States citizens who meet these requirements are encouraged to:

(a) Apply for identification as being eligible for consideration, and

(b) Apply directly for transfer to a United States medical school (schools).

4. Not later than August 15, 1977, the Department will identify citizens of the United States who have applied for identification and who meet the eligibility requirements.

5. United States medical schools which have applied for capitation grants will be apportioned a number of positions to be reserved for the enrollment of eligible United States citizens. The Department intends, in making its apportionment of positions for the school year 1978–79, to take into consideration whether a school has already enrolled in the school year 1977–78 students eligible for the transfer program.

Questions and comments concerning this Notice should be directed to:

Director, Division of Medicine, Bureau of Health Manpower, HRA/DHEW, Federal Center Building No. 2, 4th Floor, 3700 East-West Highway, Hyattsville, Maryland 20782.

The Department will issue regulations necessary for implementation of this provision and will afford the public the opportunity to participate in this process.

Dated: May 13, 1977.

HAROLD MARGULIES, M.D.,
Deputy Administrator,
Health Resources Administration.

[FR Doc.77-14543 Filed 5-20-77;8:45 am]

National Institutes of Health

PHENFORMIN

Report on Carcinogenesis Bioassay; Availability

Phenformin has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of the carcinogenicity of phenformin hydrochloride was conducted using Fischer 344 rats and B6C3F1 mice. The compound was administered in the diet for 78 weeks to groups of 35 animals of each species and sex, using concentrations of 15,000 and 30,000 ppm for rats and cencentrations of 1,200 ppm and 2,500 ppm for mice. Treatment was followed by a period of observation of 26 weeks. Control groups consisted of 15 untreated animals of each species and sex.

Average weights attained by treated groups of rats and mice were consistently lower than those of control groups in all tests except that for male rats, in which case the weights shown by treated and control animals were indistinguishable. Survival was apparently unaffected in both species by treatment with phenformin, but was poor in mice due to intercurrent disease.

Tumors appearing in treated rats and mice were similar in type and number to those in controls, and no pathologic or statistical evidence of induction of tumors in these species by phenformin was found.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention.)

Dated: May 9, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-14120 Filed 5-20-77;8:45 am]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

In FR Doc. 77-9096, appearing at page 16517, in the FEDERAL REGISTER of Monday, March 28, 1977, the following changes should be made:

1. On page 16517, in the third column, the first centered heading which now reads "Sec. CP.00 Office of Program Operations—(Mission)" should be changed to read "Sec. SP.00 Office of Program Operations—(Mission)";

2. On page 16518, in the third column, six lines from the bottom of the page, "(SPE)" should read "(SPS)";

3. On page 16519, in the first column, in the centered heading, the section number should be changed to read "SP.20";

4. On page 16522, in the first column, the thirtieth line from the top should be deleted;

5. On page 16522, in the third column, under the heading *"b. The Integrated Systems Redesign Staff (SPP29)"*, in the fourth line, the word "and" should be changed to "of";

6. On page 16523, in column one, in the sixteenth line from the top of the page, "SAA" should be changed to read "SSA";

7. On page 16526, in the first column, in the fifth line from the top of the page, "BLI's" should be changed to read "BDI's";

8. On page 16528, in the third column, in the twenty-sixth line from the bottom of the page, "SSI's" should be changed to read "SSA's";

9. On page 16530, in the first column, in the fourteenth line from the bottom of the page, what now reads "an deffective" should be changed to read "and effective";

10. On page 16530, in the third column, in the third line from the top of the page, "regard-" should read "regarding".

SOCIAL SECURITY BENEFIT INCREASES

Cost-of-Living Increase in Benefits Under Titles II and XVI of the Social Security Act and in Income Limitations for Beneficiaries Under the Supplemental Security Income Program

Correction

In FR Doc. 77-13419 appearing at page 24209 in the issue for Thursday, May 12, 1977, make the following corrections:

(1) In the table on page 24211, the duplicate line for "31.37" should be deleted.

(2) In the table on page 24213, in the right hand column, the 10th entry now reading "452.40" should have read "852.40".

(3) Also in the table on page 24213, right hand column, the 36th entry now reading "514.00" should have read "914.00".

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

CONTRACTING AUTHORITY

Redelegations of Authority

In accordance with 200 Departmental Manual 1.10, the following sections of the BPA Manual concerning redelegations of contracting authority will no longer be published in the FEDERAL REGISTER:

SECTON 10.10—CONTRACTS MANAGER
SECTION 10.11—CONSTRUCTION AND CLEARING CONTRACTS
SECTION 10.12—MATERIALS, EQUIPMENT, AND OTHER CONTRACTS

These redelegations will now be located in Chapter 11 of the BPA Manual. The Manual can be viewed by contacting the Public Information Office, 1002 NE. Holladay Street, Portland, Oregon 97208; telephone 503–234–3361, extension 5131.

Dated: May 5, 1977.

STANLEY E. EFFERDING,
Acting Administrator.

[FR Doc.77-14541 Filed 5-20-77;8:45 am]

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA & TEXAS

Oil and Gas Lease Sale No. 47 June 23, 1977

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343) and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of bids.* Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., June 22, 1977; or by personal delivery to Ballrooms No. 1 and No. 2, Delta Towers, 1732 Canal Street, New Orleans, Louisiana 70112, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., June 23, 1977. Bids received by the Manager later than the times and date specfied above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., June 23, 1977. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 42 FR 18905, April 11, 1977.

3. *Rent, royalty and bonus.* Bids submitted on all tracts to be offered at this

sale must be on a cash bonus bid basis. The royalty for all tracts is fixed at 16⅔ percent. Leases which may be issued will provide for a yearly rental or minimum royalty of $3 per acre or fraction thereof.

4. *Method of bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., c.s.t., June 23, 1977," must be submitted for each tract. A suggested bid format appears in paragraph 16. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, or by cashier's check, bank draft, certified check or money order, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Part 3302. The suggested form for this statement to be used in joint bids appears in paragraph 16. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

5. *Equal opportunity.* Each bidder must have submitted by 9.30 a.m., c.s.t., June 23, 1977, the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140–8 (November 1973), and the Affirmative Representation Form, Form 1140–7 (December 1971).

6. *Bid opening.* Bids will be opened on June 23, 1977, beginning at 10 a.m., c.s.t., in Ballrooms No. 1 and No. 2, Delta Towers at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, June 23, 1977, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. *Deposit of payments.* Any cash, checks, drafts, or money order submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. *Withdrawal of tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. *Acceptance or rejection of bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) His bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the United States.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. *Successful bidders.* Each person who has submitted a bid accepted by the United States will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

11. *Protraction diagrams/leasing maps.* Tracts offered for lease may be located on the following official leasing maps/protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2.

(a) Outer Continental Shelf Official Leasing Maps—Texas No. 1 through No. 7C. These maps are arranged in two sets, Nos. 1 through 4 (7 maps) and Nos. 5 through 7C (8 maps), which sell for $5 per set.

(b) Outer Continental Shelf Official Leasing Maps—Louisiana Nos. 1 through 11A. This is a set of 26 maps which sells for $15.

(c) Single copies of Official OCS Protraction Diagrams are available at $2 each, as follows:

(1) NG 15–1, East Breaks;

(2) NG 15–2, Garden Banks;

(3) NH 15–12, Ewing Bank;

(4) NG 15–3, Green Canyon;

(5) NH 16–10, Mississippi Canyon.

12. *Tract descriptions.* NOTE.—There are gaps in the sequence of numbers of tracts.

The tracts offered for bid are as follows:

Tract	Block	Description	Acreage
OCS official leasing map, North Padre Island Area, Texas map No. 2—Approved July 16, 1954			
47-1	884	All	5,760
47-2	893	All	5,760
OCS official leasing map, North Padre Island area, east addition, Texas map No. 2A—Approved May 6, 1965			
47-3	913	All	5,760
47-4	960	All	5,760
OCS official leasing map, Matagorda Island area, Texas map No. 4—Approved July 16, 1954			
47-5	664	Federal portion[1]	5,384.09
47-6	665	All	5,760
47-7	686	All	5,760
47-8	707	All	5,760
47-9	713	All	5,760
47-10	A-2	All	5,760
47-11	A-7	All	5,760
47-12	A-8	All	5,760
OCS official leasing map, Brazos area, Texas map No. 5—Approved July 16, 1954			
47-13	564	All	5,760
47-14	577	All	5,760
47-15	A-2	All	5,760
47-16	A-3	All	5,760
47-17	A-20	All	5,760
47-18	A-21	All	5,760
OCS official leasing map, Brazos area, south addition, Texas map No. 5B—Approved Sept. 24, 1959			
47-19	A-191	All	5,760
OCS official leasing map, galveston area, Texas map No. 6—Approved July 16, 1954			
47-20	339	All	5,760
OCS official leasing map, Galveston area, south addition, Texas map No. 6A—Approved Sept. 24, 1959			
47-21	A-179	All	5,760
47-22	A-193	All	5,760
OCS official leasing map, High Island area, south addition, Texas map No. 7B—Approved Sept. 24, 1959			
47-23	A-462	All	5,760
47-24	A-491	All	5,760
47-25	A-493	All	5,760
47-26	A-516	All	5,760
47-27	A-517	All	5,760
47-28	A-524	All	5,760
47-29	A-526	All	5,760
47-30	A-537	All	5,760
47-31	A-538	All	5,760
OCS official leasing map High Island area, east addition, south extension, Texas map No. 7C—Approved Sept. 24, 1959			
47-32	A-285	All	5,760
47-33	A-286	All	5,760
47-34	A-367	All	5,760
47-35	A-379	All	5,760
OCS official leasing map, West Cameron area, Louisiana map No. 1—Approved June 8, 1954; revised July 22, 1954			
47-36	27	Federal Portion[2]	3,712.24
47-37	47	NE¼;S½	3,750
47-38	106	All	5,000
47-39	107	All	5,000
47-40	108	All	5,000
47-41	143	All	5,000
47-42	174	Portion[3]	2,840.15
47-43	187	All	5,000
47-44	206	All	5,000
47-45	227	All	5,000
47-46	232	All	5,000
47-47	249	All	5,000
47-48	253	All	5,000
47-49	261	All	5,000
47-50	281	All	5,000

Tract	Block	Description	Acreage
OCS official leasing map, West Cameron area, west addition, Louisiana map No. 1A—Approved Nov. 15, 1955; revised Jan. 30, 1957			
47-51	316	All	5,000
47-52	318	All	5,000
47-53	328	All	5,000
47-54	329	All	5,000
47-55	339	All	3,130.34
47-56	342	All	5,000
47-57	356	All	2,226.34
47-58	358	All	5,000
47-59	423	All	5,000
47-60	424	All	5,000
47-61	425	All	5,000
47-62	441	All	5,000
47-63	442	All	5,000
47-64	443	All	5,000
OCS official leasing map, West Cameron area, south addition, Louisiana map No. 1B—Approved Sept. 8, 1959			
47-65	446	All	5,000
47-66	447	All	5,000
47-67	451	All	5,000
47-68	458	All	5,000
47-69	467	All	5,000
47-70	468	All	5,000
47-71	472	All	5,000
47-72	473	All	5,000
47-73	483	All	5,000
47-74	493	All	5,000
47-75	494	All	5,000
47-76	495	All	5,000
47-77	498	All	5,000
47-78	499	All	5,000
47-79	508	All	5,000
47-80	509	All	5,000
47-81	573	All	5,000
47-82	574	All	5,000
OCS official leasing map, East Cameron area, Louisiana map No. 2—Approved June 8, 1954; revised Aug. 1, 1973			
47-85	8	Federal portion [2]	270.86
47-86	15	do	4,649.98
47-87	26	All	5,000
47-88	27	All	5,000
47-89	52	All	5,000
47-90	56	All	2,450.60
47-91	58	All	5,000
47-92	59	All	5,000
47-93	70	All	5,000
47-94	94	All	5,000
47-95	95	All	5,000
47-96	128	All	2,001.79
47-97	129	All	5,000
47-98	131	All	5,000
47-99	142	All	5,000
47-100	232	All	5,000
47-101	235	All	1,384.67
OCS official leasing map, East Cameron area, south addition, Louisiana map No. 2A—Approved Sept. 8, 1959			
47-102	262	All	5,000
47-103	279	All	5,000
47-104	330	All	5,000
47-105	365	All	5,000
47-106	366	All	5,000
OCS official leasing map, Vermilion area, Louisiana map No. 3—Approved June 8, 1954; revised June 25, 1954; July 22, 1954			
47-107	16	Federal portion [2]	805.82
47-108	24	All	5,000
47-109	29	Federal portion [2]	4,415.97
47-110	36	W½ NE¼; S½, NW¼	4,375
47-111	41	All	4,251.09
47-112	43	All	5,000
47-113	51	All	4,577.34
47-114	58	All	5,000
47-115	61	All	4,307.19
47-116	73	All	5,000
47-117	74	All	5,000
47-118	122	All	4,699.91
47-119	175	All	5,000
OCS official leasing map, Vermilion area, South addition, Louisiana map No. 3B—Approved Sept. 8, 1959			
47-120	260	All	5,000
47-121	347	All	5,000
47-123	404	All	5,000
47-124	405	All	5,000
47-125	411	All	5,000
47-126	412	All	5,000
OCS official leasing map, South Marsh Island area, Louisiana map No. 3A—Approved Aug. 7, 1959			
47-127	70	All	5,468.44
OCS official leasing map, South Marsh Island Area South addition, Louisiana map No. 3C—Approved Sept. 8, 1959			
47-128	71	All	3,004.52
47-129	114	All	5,000
47-130	124	All	5,000
47-131	181	All	2,500
47-132	182	All	3,473.79
47-133	194	All	5,000
47-134	195	All	5,000
47-135	201	All	5,000
47-136	202	All	5,000
47-137	203	All	5,000
OCS official leasing map, South Marsh Island Area, north addition, Louisiana map No. 3D—Approved Apr. 16, 1971; revised Jan. 18, 1972			
47-138	282	All	3191.80
OCS official leasing map, Eugene Island area, Louisiana map No. 4—Approved June 8, 1954; revised July 22, 1954			
47-139	33	Federal Portion [2]	4,890.83
47-140	43	All	5,000
47-141	80	All	5,000
47-142	87	All	5,000
47-143	107	All	5,000
47-144	108	All	5,000
47-145	156	All	5,000
47-146	186	All	5,000
47-147	224	All	5,000
OCS official leasing map, Eugene Island area, south addition, Louisiana, map No. 4A—Approved Sept. 8, 1959			
47-148	279	All	5,000
47-149	283	All	5,000
47-150	294	All	5,000
47-151	299	All	5,000
47-152	300	All	5,000
47-153	350	All	5,000
47-154	354	All	5,000
47-155	355	All	5,000
47-156	356	All	5,000
47-157	374	All	5,000
47-158	383	All	5,000
47-159	397	All	5,000
OCS official leasing map, ship shoal area, Louisiana map No. 5—Approved June 8, 1954			
47-160	69	All	5,000
47-161	70	All	5,000
47-162	73	All	5,000
47-163	86	All	5,000
47-164	120	W½	2,500
47-165	146	All	5,000
47-166	163	All	4,958.90
47-167	164	All	4,981.68
47-168	166	All	5,000
47-169	170	All	5,000
47-170	175	All	5,000
47-171	184	All	5,000
47-172	191	All	5,000
47-173	192	All	5,000
OCS official leasing map, ship shoal area, south addition, Louisiana map No. 5A—Approved Sept. 8, 1959			
47-174	322	All	5,000
47-175	364	All	5,000
47-176	366	All	5,000
OCS official leasing map, South Pelto Area, Louisiana map No. 6—Approved June 8, 1954; revised July 22, 1954; Dec. 9, 1954			
47-177	8	All	5,000
47-178	12	E½	2,500
47-179	18	All	5,000
47-180	21	All	5,000
OCS official leasing map, South Timbalier area, Louisiana map No. 6—Approved June 8, 1954; revised July 22, 1954; Dec. 9, 1954			
47-181	39	All	5,000
47-182	64	All	5,000
47-183	73	All	5,000
47-184	74	All	4,807.78
47-185	85	All	5,000
47-186	87	All	5,000
47-187	99	All	4,799.44
47-188	112	All	4,776.60
47-189	125	All	5,000
47-190	160	NW¼	1,250
47-191	195	All	5,000
OCS official leasing map, South Timbalier area, South addition, Louisiana map No. 6A—Approved Sept. 8, 1959; Revised July 22, 1968			
47-192	301	All	5,000
47-193	302	All	5,000
OCS official leasing map, Grand Isle area, Louisiana map No. 7—Approved June 8, 1954			
47-194	20	All	5,000
47-195	21	Portion [1]	1,704
47-196	30	do [1]	4,231
47-197	54	All	5,000
47-198	55	All	5,000
OCS official leasing map, West Delta area, Louisiana map No. 8—Approved June 8, 1954			
47-199	20	Federal portion [2]	1,058.87
47-200	38	All	1,706.21
47-201	62	All	5,000
47-202	68	N½	1,832.535
47-203	78	All	5,000
47-204	106	All	5,000
OCS official leasing map, West Delta area, south addition, Louisiana map No. 8A—Approved Sept. 8, 1959; revised Nov. 24, 1961			
47-206	114	All	5,000
47-207	115	All	5,000
47-208	116	All	5,000
47-209	121	All	5,000
OCS official leasing map, main pass area, south and east addition, Louisiana map No. 10A—Approved Sept. 8, 1959			
47-215	302	All	4,999.96
OCS official protraction diagram, east breaks NG 15-1—Approved June 8, 1973; revised Jan. 27, 1976			
47-216	124	All	1,338.55

Tract	Block	Description	Acreage
OCS official protraction diagram, garden banks NG 15-2—Approved Feb. 15, 1973; revised Jan. 27, 1976; Dec. 2, 1976			
47-217	123	All	5,760
47-218	124	All	5,760
47-219	80	All	3,472.91
OCS official protraction diagram, Ewing bank NH 15-12—Approved Feb. 15, 1973; revised Mar. 26, 1976; Dec. 2, 1976			
47-220	743	All	1,473.26
47-221	744	All	3,678.91
47-222	658	All	1,566.20
OCS official protection diagram, Green Canyon NG 15-3—approved Feb. 15, 1973; revised Jan. 15, 1976; Dec. 2, 1976			
47-223	5	All	5,744.12
OCS official protraction diagram, Mississippi Canyon NH 16-10—Approved Feb. 15, 1973; revised Jan. 15, 1976; Dec. 2, 1976			
47-224	366	All	5,760
47-225	321	All	4,042.09
47-226	322	All	5,760
47-227	324	All	5,760
47-228	325	All	5,760
47-229	326	All	5,760
47-230	380	All	5,760
47-231	282	All	5,760
47-232	156	All	5,760
47-233	157	All	5,760
47-234	69	All	5,760

[1] That portion seaward of the Three Marine League Line.
[2] That portion of the lease block which is located more than 3 geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (*United States* vs. *Louisiana*, 422 U.S. 13).
[3] That portion landward of the zone 4 line.
[4] E½E½; N½NW¼NE¼; that portion of the SW¼ SE¼ seaward of the Three Marine League Line; N½ N½NW¼.

13. *Lease terms and stipulations.* Leases issued as a result of this sale will be on Form 3300–1 (December 1976), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale:

STIPULATION No. 1

A. (To be included only in the leases resulting from this sale for tracts 47–123, 47–124, 47–125, 47–126, 47–133, 47–134, 47–135, 47–136, 47–137, 47–158, 47–192, 47–216, 47–223):

Operations in a zone extending 3 miles from any 85 meter isobath shall be restricted as follows: All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance but no more than 10 meters from the bottom.

This deep shunting requirement does not apply to mobile drilling units in the zone beyond 1 miles from any 85 meter isobath, provided that a monitoring program is implemented for disposals which are not shunted beyond 1 and within 3 miles from any 85 meter isobath. A monitoring team consisting of qualified independent personnel will submit its findings to the Regional Director, U.S. Fish & Wildlife Service, Manager, New Orleans OCS Office, Bureau of Land Management and Supervisor, United States Geological Survey (hereinafter referred to as Supervisor). This report will be made annually, or immediately in case of imminent danger to the biological community resulting from drilling operations. If it is decided that the methods of disposing of the drill cuttings and fluids are not adequate, the Supervisor will require shunting within 3 miles of any 85 meter isobath. If it is decided by the Regional Director, U.S. Fish & Wildlife Service, the Manager, New Orleans OCS Office, Bureau of Land Management, and the Supervisor that the methods of disposal are adequate, no further monitoring will be required.

B. (To be included only in the leases resulting from this sale for tracts 47–123, 47–124, 47–125, 47–126, 47–133, 47–134, 47–136, and 47–137):

No structures, drilling rigs, or pipelines will be allowed in portions of the aforementioned tracts where the depth of water is 85 meters or less, unless it is determined by procedures prescribed in Secretarial Order 2974 that no significant environmental damage will result from the proposal.

C. (To be included only in the lease resulting from this sale for tract 47–34):

Exploration and development operations are permitted within the circle with a radius of 6,116 meters around point P; located by X=3,742,875, Y=71,280 (Texas Lambert System), with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom; however, if the shunting method is not adequate, as determined by the monitoring program proceedings outlined in this stipulation, to protect the unique character of the subject area, then the material must be transported a minimum of ten miles from any 50 meter isobath surrounding live reef-building coral before disposal. Disposal sites must be approved by the Supervisor.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (work-boats, crew-boats, supply-boats, pipelaying vessels) during exploration and development operations.

No drilling permits will be issued by the Supervisor until he has found that the lessee's exploration and development plan filed under 30 CFR 250.34 is adequate to insure that exploration and production operations in the leased area will have no significant adverse effect on the biotic communities associated with the high value reef sites on the Flower Garden Banks. As a part of the development plan, a reef monitoring program must be included.

The monitoring program will be designed to assess the effects of oil and gas exploration and development operations on the viability of the coral reefs and associated communities. The development plan should indicate that the monitoring program will be conducted by qualified independent scientific personnel and that program personnel and equipment will be available at the time of operations. The monitoring team will submit its findings to the Regional Director, U.S. Fish & Wildlife Service, Manager, New Orleans OCS Office, Bureau of Land Management and Supervisor on a regular schedule established by the Supervisor, or immediately in case of imminent danger to the reefs resulting directly from drilling or other operations.

STIPULATION No. 2

If the Supervisor, having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager, Bureau of Land Management (BLM) Outer Continental Shelf (OCS) office for review.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this identification investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the Supervisor and the Manager, BLM OCS office for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

14. *Restriction on leases.* Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Department of the Army permits are required for construction of any structures in or over any navigable waters of the United States pursuant to Section 10 of the River Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and for artificial islands and fixed structures located on the Outer Continental Shelf in accordance with Section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333 (f)).

Permit applications and inquiries should be directed to the appropriate

District Engineer, New Orleans District or Galveston District, U.S. Army Corps of Engineers.

15. *OCS Orders.* Operations of all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Area OCS Orders, issued effective January 1977, and any other applicable OCS order as it becomes effective.

16. *Suggested bid form.* It is suggested that bidders submit their bids to the Manager, New Orleans Outer Continental Shelf office, in the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per acre	Amount of cash bonus submitted with bid

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID

N.O. misc. No._____%

_____ Company

_____ Address

_____ Signature (Please type signer's name under signature)

JOINT BIDDER'S STATEMENT

I hereby certify that _____ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

_____ Signature

Sworn to and subscribed before me this _____ day of ____ 19_____.

_____, State of ____, (County) of _____.

Notary Public

CURT BERKLUND,
Director, Bureau of Land Management.

Approved: May 17, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-14474 Filed 5-20-77;8:45 am]

Geological Survey

[Phosphate Land Classification Order Utah No. 7]

UTAH

Phosphate Land Classification

Correction

In FR Doc. 77-11876 appearing at page 21330 in the issue for Tuesday, April 26, 1977, in the 11th line from the top of the first column of page 21331, "lots 7 to 8" should have read "lots 1 to 8".

REGULATION OF MOBILE OFFSHORE DRILLING UNITS ON THE OUTER CONTINENTAL SHELF OF THE UNITED STATES

Memorandum of Understanding Between the United States Coast Guard of the Department of Transportation and the United States Geological Survey of the Department of the Interior

Correction

In FR Doc. 10931, appearing at page 20198, in the FEDERAL REGISTER of Monday, April 18, 1977, the following changes should be made:

1. The heading should read as set forth above;

2. On page 20198, in the third column, in the tenth line from the bottom of the page, the word "of" should be changed to read "or".

National Park Service

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, American Borate Corporation has filed a plan of operations in support of proposed mining activities on lands embraced by mining claim locations within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 8, 1977.

DONALD M. SPALDING,
Superintendent,
Death Valley National Monument.

Dated: May 25, 1977.

HOWARD H. CHAPMAN,
Regional Director,
Western Region.

[FR Doc.77-14529 Filed 5-20-77;8:45 am]

Office of the Secretary

[Int. DES 77-18]

PROPOSED OPERATING CRITERIA FOR LOWER TRUCKEE-LOWER CARSON RIVER BASINS, NEV.

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 the Department of the Interior has prepared a Draft Environmental Statement on the Proposed Operating Criteria for the Lower Truckee-Lower Carson River Basins. Those basins are located principally in Washoe and Churchill Counties, State of Nevada.

The environmental statement contains human, economic and physical environmental effects associated with the proposal to set and enforce the operating criteria for the Newlands Reclamation Project which diverts water from the Truckee River for use in the Truckee Division and in the North and South Carson Divisions of that project in the Carson River watershed. The proposed action would change the operating criteria of the Newlands Project and restrict the amount of water diverted from the Truckee River. That water would be kept in the Lower Truckee River Basin to preserve Pyramid Lake and assist in the reestablishment of the fishery in that lake. Certain improvements will be made in the operation and management of the Newlands Project. Copies of the statement are available for inspection at the following locations:

1. Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245. Telephone: (202) 343-3248.

2. Bureau of Indian Affairs, Phoenix Area Office, 3030 N. Central, P.O. Box 7007, Phoenix, Arizona 85011. Telephone: (602) 261-4105.

3. Bureau of Indian Affairs, Western Nevada Agency, Stewart, Nevada 89437. Telephone: (702) 882-3411.

4. Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503. Telephone: (702) 322-4042.

5. Stillwater Wildlife Management, Area Office, 1510 Rio Vista (at the Fallon Municipal Airport), Fallon, Nevada 89406; P.O. Box 592, Fallon, Nevada. Telephone: (702) 423-4128.

6. Pyramid Lake Indian Tribal Office, Nixon, Nevada 89424. Telephone: Nixon #3 (through the Reno, Nevada telephone exchange).

7. Washoe County Library, Reno Central Branch, 301 S. Center Street, Reno, Nevada 89502. Telephone: (702) 785-4190.

8. Carson City Library, 900 N. Roop Street, Carson City, Nevada 89701. Telephone: (702) 882-5665.

9. Churchill County Library, 522 South Main Street, Fallon, Nevada 89406. Telephone: (702) 423-4623.

10. Auburn-Placer County Library, 350 Nevada Street, Auburn, California 95603. Telephone: (916) 823-4391.

11. Alpine County Library, Montgomery Street, P.O. Box 296, Markleeville, California 96120. Telephone: (916) 694-2120.

12. El Dorado County Library, 549 Main Street, Placerville, California 95667. Telephone: (916) 626-2340.

13. Nevada County Library, North Pine Street, Nevada City, California 95959. Telephone: (916) 265-4606.

14. Sierra County Library (Plumas County), 445 West Jackson, P.O. Box 270, Quincy, California 95971. Telephone: 283-0780.

15. Nevada State Planning Coordinator, State Capitol Building, Carson City, Nevada 89701. Telephone: (702) 885-4865.

16. California State Clearinghouse, 1400 10th Street, Sacramento, California 95814. Telephone: (916) 445-0613.

Single copies of the draft environmental statement may be obtained without cost from:

1. Western Nevada Agency, Bureau of Indian Affairs, Stewart, Nevada 89437.

2. Stillwater Wildlife Management Area Office, 1510 Rio Vista (at the Fallon Municipal Airport) Fallon, Nevada 89406.

3. Pyramid Lake Indian Tribal Council, Nixon, Nevada 89424.

4. Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503.

Any written comments you may wish to submit will be accepted for a period of 45 days after this notice. All such comments will be considered during the preparation of the final environmental statement. Written comments should be addressed to: Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503.

Dated: May 18, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-14779 Filed 5-20-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes.

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on April 21, 1977, Regis Chemical Company, 8210 N. Austin Ave., Morton Grove, Illinois 60053, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of mescaline, a basic class of controlled substance in schedule I.

Pursuant to section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above person has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of mescaline, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than June 17, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: May 13, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-14514 Filed 5-20-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16877), Gane's Chemicals, Inc., Lessee of Siegfried Chemical, Inc., Industrial Park Rd., Pennsville, New Jersey 08070, 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*
Pentobarbital	II
Amobarbital	II
Secobarbital	II
Methaqualone	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 Acting 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: May 16, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-14515 Filed 5-20-77;8:45 am]

LEGAL SERVICES CORPORATION

AD HOC COMMITTEE ON CORPORATION'S FACILITIES OF BOARD OF DIRECTORS

Meeting

JUNE 2, 1977.

A meeting of the Ad Hoc Committee on the Corporation's Facilities will be held on Thursday, June 2, 1977, at the offices of the Corporation, 733 Fifteenth Street, N.W., Washington, D.C.

The meeting will begin at 2:00 p.m. and will be for the purpose of considering options available to the Corporation for housing its headquarters offices.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-14793 Filed 5-20-77;9:56 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DANCE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held on June 12-15, 1977; from 9:30 a.m. to 5 p.m. on June 12, 9 a.m. to 7 p.m. on June 13, 9 a.m. to 6 p.m. on June 14 in Room 1422 Columbia Plaza Building and from 9 a.m. to 5:30 p.m. on June 15, in Room 1115 Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on June 12, from 3 p.m. to 5 p.m., June 14, from 4 p.m. to 6 p.m. and June 15, from 9 a.m. to 2:30 p.m. on a space available basis. The agenda for these sessions will include open workshop and guidelines.

The remaining sessions of this meeting on June 12, from 9:30 a.m. to 3 p.m.; June 13, from 9 a.m. to 7 p.m.; June 14, from 9 a.m. to 4 p.m. and June 15, from 2:30 to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National En-

dowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77-14526 Filed 5-20-77;8:45 am]

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on June 8-10, 1977; from 9:15 a.m. to 5:30 p.m. on June 8-9, and 9:15 a.m. to 1 p.m. on June 10, in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on June 8, from 9:15 a.m. to 12 noon; June 10, from 9:15 a.m. to 11:30 a.m. on a space available basis. The agenda for these sessions will include panel update and guidelines.

The remaining sessions of this meeting on June 8, from 1:30 p.m. to 5:30 p.m., June 9, from 9:15 to 5:30 and June 10, from 11:30 a.m. to 1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

May 17, 1977.

[FR Doc.77-14523 Filed 5-20-77;8:45 am]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)2 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Special Projects (Folk Arts) Advisory Panel to the National Council on the Arts will be held on June 10-11, 1977, from 9:30 a.m. to 5:30 p.m., in Room 1329, Columbia Plaza Building, 2401 E Street N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 11, from 9:30 a.m. to 1:30 p.m. on a space available basis. The agenda for this session will include guidelines.

The remaining sessions of this meeting on June 10, from 9:30 a.m. to 5:30 p.m. and June 11, from 1:30 p.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman publshed in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77-14525 Filed 5-20-77;8:45 am]

THEATRE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Theatre Advisory Panel to the National Council on the Arts will be held on June 11-13, 1977, from 9:30 a.m. to 5:30 p.m. on June 11-12 and 9:30 a.m. to 5 p.m. on June 13 in the Essex House, New York, New York.

A portion of this meeting will be open to the public on June 13, from 9:30 a.m. to 5 p.m. on a space available basis. The agenda for these sessions will include guidelines.

The remaining sessions of this meeting on June 11-12, from 9:30 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77-14524 Filed 5-20-77;8:45 am]

THEATRE RESEARCH PROJECT MEETING

Meeting

The National Endowment for the Arts has contracted with Mathtech, Inc. to conduct a research study on the condition and needs of American theatre. Consultants representing the theatre community will assist the contractor in this study.

A meeting of these consultants is scheduled from June 9 (2 p.m.) to June 10 (12 noon) and will be held in the Board Room, League of New York Theatres and Producers, 226 West 47th Street, New York, New York 10036.

The agenda will concern plans for the project being initiated. The contractor wishes to receive written statements from interested parties concerning their perceptions of the condition and the needs of American theatre. Such comments should be addressed to the Project Manager, Dr. Robert J. Anderson, Jr., Vice President and Director of Economics, Mathtech, Inc., P.O. Box 2392, Princeton, New Jersey, 08540.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77-14527 Filed 5-20-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Proposal Review Panel for the Office for the International Decade of Ocean Exploration, Ad Hoc Subpanel for the SEAREX Project.

DATE AND TIME: June 9, 1977, 9 a.m. to 5 p.m.

PLACE: National Science Foundation, 1800 G Street NW., Room 643, Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Mr. Feenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7356.

PURPOSE OF PANEL: To provide the IDOE Proposal Review Panel members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Sea-Air Exchange (SEAREX).

AGENDA: Detailed review and evaluation of proposals for support of the SEAREX Project.

REASON FOR CLOSING: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc.77-14517 Filed 5-20-77;8:45 am]

USES COMMITTEE OF NSF SCIENCE INFORMATION ACTIVITIES TASK FORCE

Open Meeting

In accordance with the Federal Advisory Act, P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Uses Committee of the Science Information Activities Task Force.

DATE: June 9, 1977.

TIME: 7 p.m. to 10 p.m.

TYPE OF MEETING: Open.

PLACE: National Science Foundation (Conference Room 540), 1800 G Street NW., Washington, D.C. 20550.

CONTACT:

Mr. Robert S. Cutler, Executive Officer, Room 1201, National Science Foundation, Washington, D.C. 20550. Telephone 202-632-5826.

Persons planning to attend should notify Mr. Cutler prior to this meeting.

Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of the Task Force: To provide advice and recommendations concerning the appropriate roles and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information. This committee, one of four established by the Task Force, will explore the user needs aspects pertinent to the Task Force's charge.

AGENDA

7 p.m.—Welcome and Introductory Remarks, Chairman.
7:15 p.m.—Discussion of User Requirements Program: User studies aspects.
8 p.m.—Open Public Participation.
8:30 p.m.—Discussion of User Requirements Program: Education and training aspects.
10 p.m.—Adjourn.

M. REBECCA WINKLER,
Acting Committee,
Management Officer.

MAY 17, 1977.

[FR Doc.77-14516 Filed 5-20-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

REACTOR SAFEGUARDS ADVISORY COMMITTEE, REGULATORY ACTIVITIES SUBCOMMITTEE

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Regulatory Activities will hold an open meeting on June 8, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555.

The agenda for subject meeting shall be as follows:

WEDNESDAY, JUNE 8, 1977

8:45 A.M. UNTIL ABOUT 12 NOON

A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.122, Revision 1, "Development of Floor Design Response Spectra for Seismic Design of Floor Supported Equipment or Components."

(2) A Working Paper, Regulatory Guide, 1.XX, "Normal Water Level and Discharge at Nuclear Power Plants."

(3) A Working Paper, Regulatory Guide 1.XX, "Reporting of Significant Design and Construction Deficiencies."

1 P.M. UNTIL THE CLOSE OF BUSINESS.

B. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to activities which affect the current licensing process or reactor operations, including those relating to the following:

(1) Procedures and bases for the possible implementation of new regulatory requirements and improved safety features when scheduled initial plant operation is much more than the normal time period beyond a construction permit.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed during this session.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guide 1.122 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 1, 1977 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(B) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on June 7, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EDT.

(D) Questions may be propounded only by members of the Subcommittee and its consultants.

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(F) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555 on or after June 15, 1977, and September 8, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: May 19, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14659 Filed 5-20-77;8:45 am]

[Docket Nos. 50-338 OL and 50-339 OL]

VIRGINIA ELECTRIC & POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Order

It is ordered, That the evidentiary hearing will resume at 9:30 a.m. on May 31, 1977, in the City Council Chambers on the Second Floor of City Hall, 7th and Main Streets, Charlottesville, Virginia.

Dated at Bethesda, Maryland, this 17th day of May, 1977.

THE ATOMIC SAFETY AND LICENSING BOARD.

FREDERICK J. COUFAL,
Chairman.

[FR Doc.77-14658 Filed 5-20-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 9–11, 1977, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, JUNE 9, 1977

8:30 a.m. to 9:15 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to activities.

The Committee will also hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to review of the Zion Station, Units 1 and 2. Portions of this session will be closed if necessary to discuss Proprietary Information related to the design and/or operation of this facility. Closed portions will also be held if required to discuss security provisions at this station.

9:15 a.m. to 12:15 p.m.: Zion Station, Units 1 and 2 (Open)—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the applicant related to the review of outstanding technical issues identified in the ACRS report of June 6, 1976 on proposed full power operation of the Zion plant. Portions of this session will be closed if necessary to discuss Proprietary Information related to the design and/or operation of this facility. Closed portions will also be held if required to discuss security provisions at this station.

1:15 p.m. to 1:45 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee Chairman regarding a number of issues related to the design and operation of the Shippingport Atomic Power Station. Portions of this session will be closed if required to discuss security provisions at this facility.

1:45 p.m. to 3:15 p.m. Shippingport Atomic Power Station (Open)—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the Division of Naval Reactors, ERDA, and its contractors regarding issues related to the design and operation of this station. Portions of this session will be closed if necessary to discuss security provisions for this facility.

3:15 p.m. to 5:30 p.m.: Executive Session (Open)—The Committee will hear and discuss reports of ACRS Subcommittees, Working Groups and members on a number of regulatory matters including standardized nuclear plants and General Design Criterion No. 19. The Committee will also discuss items related to a periodic ACRS report on matters needing the attention of the NRC Commissioners and clarification of ACRS reports at the request of the Commission.

5:30 p.m. to 6:30 p.m.: Executive Session (Open/Closed)—The Committee will meet in open session to prepare a report to the Nuclear Regulatory Commission on the Zion Station, Units 1 and 2 and in closed session to prepare a letter to the Commonwealth of Pennsylvania on the Shippingport Atomic Power Plant. In the event a report to NRC is required regarding the Shippingport Plant, it will be prepared in open session.

FRIDAY, JUNE 10, 1977

8:30 a.m. to 11:30 a.m.: Meeting with NRC Staff (Open)—The Committee will hear presentations and hold discussions with members of the NRC Staff regarding recent operating experience at nuclear facilities, licensing actions, generic matters related to reactor licensing, and the future schedule for ACRS activities. This discussion will include the:

Status of construction at the North Anna Nuclear Power Station, Units 1 and 2;

Equipment performance at the Rancho Seco and Beaver Valley nuclear plants;

Reclassification of the turbine trip without bypass transient.

11:30 a.m. to 12:30 p.m.: Executive Session (Closed)—The Committee will hear and discuss comments by ACRS members regarding reactor safety and safeguards information provided in confidence by a foreign government.

1:30 p.m. to 2:30 p.m.: Meeting with NRC Commissioners (Open)—The Committee will discuss with the Commissioners a periodic report by the ACRS regarding regulatory matters which should be brought to the attention of the Commissioners.

2:30 p.m. to 3:30 p.m.: Executive Session (Open)—The Committee members will discuss proposed ACRS action regarding General Design Criterion No. 19.

The Committee will hear and discuss the reports of ACRS Subcommittees and Working Groups regarding various generic matters including:

Fluid-hydraulic dynamic forces primary and secondary systems;

Reactor fuel performance and surveillance;

Fire protection at nuclear facilities;

Review of reactor safety research programs.

3:30 to 6:30 p.m. Executive Session (Open/Closed)—The Committee will meet in open session to prepare a report to the Nuclear Regulatory Commission on the Zion Station, Units 1 and 2, and in closed session to prepare a letter to the Commonwealth of Pennsylvania on the Shippingport Atomic Power Station. In the event a report to the NRC is required regarding the Shippingport Plant it will be prepared in open session.

SATURDAY, JUNE 11, 1977

8:30 a.m. to 10:30 a.m.: Executive Session (Open/Closed)—The Committee will meet in open session to complete its report to the NRC on the Zion Station, Units 1 and 2 and in closed session to complete its letter to the Commonwealth of Pennsylvania on the Shippingport Plant.

10:30 a.m. to 12:30 p.m.: Executive Session (Open)—The Committee will meet in open session to prepare/complete its report to the NRC on the Shippingport Plant and its reports/comments on other matters discussed during this meeting as required.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552b. (c) (4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b.(c) (1) (4), and material, including classified and proprietary information, provided in confidence by a foreign government [Executive Order 11652, Section 4c. and 5 U.S.C. 552b.(c) (1) (4) and (9) (B)]. That portion of the meeting during which the Committee's letter to the Commonwealth of Pennsylvania is drafted will be closed pursuant to exemption (9) (B) of 5 U.S.C. 552b.(c) since it involves information the premature disclosure of which would significantly frustrate implementation of proposed Committee action. Separation of factual information and information considered exempt from disclosure under exemptions (1), (4), (9) (B), of 5 U.S.C. 552b. during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is

empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 1, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

ZION GENERATING STATION, UNITS 1 AND 2

Waukegan Public Library, 128 North County Street, Waukegan, IL 60085.

SHIPPINGPORT ATOMIC POWER STATION

B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety-related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding, topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on June 8, 1977, to the Office of the Executive Director of the Committee (Telephone: 202-634-1371) between 8:15 am and 5:00 pm, Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on June 8, 1977.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings of the proceedings will be permitted only during those open sessions when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this materials is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., on or after September 9, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: May 19, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14785 Filed 5-20-77;9:41 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 13, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(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

TENNESSEE VALLEY AUTHORITY

Comparability Study of Power Plant Operators, single time, companies in vicinity engaged in comparable work, Strasser, A., 395-5867.

VETERANS ADMINISTRATION

Transfer of Ownership Data—Portfolio Loan, 26-8792, on occasion, assumers of VA portfolio mortgages, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Forest Service, Indiana Woodland Owner Timber Sale Survey, single time, Indiana woodland owners, Gaylord Worden, 395-4780.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration:

Coastal Energy Impact Program (Pub. L. 94-370) (Grants, Loans, Guarantees), 36-20, 21, 22, 23, on occasion, State and local governments, Ellett, C. A., 395-5867.

Seafood Industry Survey on the Comparison of Edible Aquatic Species, single time, seafood industry specialist, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Basic Educational opportunity Grant Application Questionnaire, OE-556, single time, high school counselors and financial aid officers, Warren Topelius, 395-5872.

National Institute of Education, California Beginning Teacher Evaluation Study (Teacher Attitude Questionnaire) (Demographic Data Form), NIE-182 A-B, single time, elementary school teachers San Francisco Bay area, Kathy Wallman, 395-6140.

National Center for Education Statistics Libgis A, B, C, D, E, 2394- 1 and 2, 2395, 2391-1, 2396- 1 and 2, 23, single time, librarians and library agencies, Kathy Wallman, 395-6140.

National Institute of Education:
Cross Project Evaluation of the R. & D. Utilization Program, (Evaluation Instruments T1 and T2), (NIE–181 T1 and T2, single-time, school practitioners administrators housing, veterans and labor division, Raynsford, R., 395–3532.
Survey of Secondary School Principals, NIE–175 A and B, single time, public and private secondary school principals, Kathy Wallman, 395–6140.

Alcohol, Drug Abuse and Mental Health Administration, Impact of Family Therapy Treatment of Client Outcome and Program Functioning, single-time, clients and staff of Federally funded drug abuse treatment program, Richard Eisinger, 395–6140.

Center for Disease Control, Directory on Smoking and Health Research, CDC–65.5, other (see SF–83), scientists engaged in smoking and health research, Richard Eisinger, 395–6140.

REVISIONS

VETERANS ADMINISTRATION

Evaluation of Treatment of Drug and Alcohol Dependent Patients, 10–798, single-time, VA patients in alcohol and drug dependence treatment, housing veterans and labor division, Reese, B. F., 395–3532.

SMALL BUSINESS ADMINISTRATION

Title VI, Compliance Report, SBA 707, annually, small business, Lowry, R. L., 395–3772.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Instruction for the Preparation of an Application for a Pilot Grant, on occasion, colleges, universities and schools, Warren Topelius, 395–5872.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Instructions for the Preparation of an Application for an Education Project Grant, on occasion, colleges, universities and schools, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration:
Jewel Bearings and Related Components in 19____, DIB–941, annually, producers, consumers, and importers of jewel bearings, Warren Topelius, 395–5872.

Defense Materials System-Application for Allotment or Class A Products, DMS–4A, on occasion, manufacturers and contractors who use controlled materials, Warren Topelius, 395–5872.

Defense Materials System—Application for Allotment or Construction, DMS–4C, on occasion, manufacturers and contractors who use controlled materials, Warren Topelius, 395–5872.

Defense Materials System — Detailed Breakdown of Controlled Materials, DMS–4S, on occasion, manufacturers and contractors who use controlled materials, Warren Topelius, 395–5872.

National Bureau of Standards, Survey of Radioactivity Standards Needs, NBS–951, on occasion, purchasers of standard, Warren Topelius, 395–5782.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Title I Claim for Loss (Property Improvement), FH–7, on occasion, banks, savings and loans, credit unions, etc., housing, veterans and labor division, 395–3532.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration, Material Safety Data Sheet, OSHA–20, on occasion, shipbuilders, Ellett, C. A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14531 Filed 5–20–77;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 May 16, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(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

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Travel Grant Study (questionnaires study) single time, scholars in the humanities disciplines, energy and science division, Raynsford, R., 395–3810.

REVISIONS

VETERANS ADMINISTRATION

Notice of Action Taken on Payroll Deduction for Government Life Insurance, 29–800, on occasion, employers, Warren Topelius, 395–5872.

Application for Home Loan Guaranty, 26–1802A, on occasion, lenders and veterans, Warren Topelius, 395–5872.

Application for Veterans Group Life Insurance (veterans separated 120 days or less), 29–8714, on occasion, veterans separated 120 days or less, Warren Topelius, 395–5872.

UNITED STATES INFORMATION AGENCY

Application for Certificate of International Educational Character—Slides/Transparencies, IAP–4, on occasion, business firms, Warren Topelius, 395–5872.

UNITED STATES INFORMATION AGENCY

Application for Certificate of International Educational Character—Filmstrip, IAP–3, on occasion, business firms, Warren Topelius, 395–5872.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:
Mercury (supply and disposition), 6–1091–QA, quarterly, mercury consumers, Warren Topelius, 395–5872.
Aluminum Scrap and Ingot (smelters of secondary aluminum), 6–1114–MA, monthly, consumers of aluminum scrap, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census, report of stocks—canned and bottled vegetables, fruits, juices and fish and central office report, B–1310–A, B–1310–B, B–1310–C, B–1310–D, B–1310–E, B1310–E supp., other (see SF–833, wholesale distributors and retail warehouses, Warren Topelius, 395–5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Guarantee Agency Monthly Report, OE–1130, monthly, state and private guarantee agencies, Warren Topelius, 395–5872.
A Handbook for Validation of Educational Practices, (Title III, ESEA), OE4552, on occasion, state and local education agencies, Housing, Veterans and Labor Division, Raynsford, R., 395–3532.
Financial Status Report and Performance Report Educational Opportunity Centers, OE 366, quarterly, project directors at approved higher education institutions, Marsha Traynham, Budget Review Division. 395–4529.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:
Magnesium, 6–1081–A, annually, consumers of magnesium metal, Warren Topelius, 395–5872.
Rare Earths and Thorium (production), 6–1272–A, annually, producers of rare earth and thorium, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14532 Filed 5–20–77;8:45 am]

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period May 2, 1977 through May 13, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF LABOR

System Names:

(1) Investigatory Files—PWBP, Division of Enforcement.

(2) Impact of Disqualification Provisions of State Unemployment Insurance Laws.

(3) Analysis of Delayed and Never Filers for Unemployment Insurance.

Report Date:

April 27, 1977.

Point-of-Contact:

Sofia P. Petters, Counsel for Administrative Legal Services, Department of Labor, Washington, D.C. 20210.

Summary:

The report proposes two new systems, to be operated by contractors pursuant to subsection (m) of the Privacy Act, "to determine the extent of and the reasons for delayed filing or never filing for unemployment insurance benefits." The third proposed system was created out of an existing system by a reorganization.

DEPARTMENT OF JUSTICE

System Names:

(1) Civil Division Case File System.
(2) Civil Division Case File System—Customs Section.
(3) Office of Alien Property File System.

Report Date:

April 28, 1977.

Point-of-Contact:

Mr. Harry Gastley, Department of Justice, Washington, D.C. 20530.

Summary:

This is a proposed modification of the Civil Division Case File System, which separates the system into "three distinct systems which more accurately reflect the categories of records, purposes and functions of the systems."

DEPARTMENT OF COMMERCE

System Names:

Nuclear Reactor Operator Licensees File.

Report Date:

May 8, 1977.

Point-of-Contact:

Mr. Joseph O. Smiroldo, Director, Office of Organization, and Management Systems, Department of Commerce, Washington, D.C. 20230.

Summary:

The proposed system "provides a record documenting that operators of the National Bureau of Standards reactor are trained, tested, and qualified to operate the facility, and forms the basis for subsequent renewal of their operators' licenses by the Nuclear Regulatory Commission."

CONSUMER PRODUCT SAFETY COMMISSION

System Name:

Commissioned Officers Personal Data File.

Report Date:

May 6, 1977.

Point-of-Contact:

Mr. Melnick, Office of the General Counsel, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

Summary:

This proposed system will support the CPSC's program for commissioning State and local government officials to conduct examinations, investigations, and inspections.

DEPARTMENT OF DEFENSE

System Name:

DOD Discharge Review Program (Special).

Report Date:

May 10, 1977.

Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense, Privacy Board (Room 5H-023), Washington, D.C. 20301.

Summary:

This proposed system will support the President's program to review Vietnam-Era less than honorable discharges and requests of "certain service members presently in a deserter status whose absence commenced during the Vietnam-Era."

DEPARTMENT OF DEFENSE

System Names:

(1) Department of Defense Superior Service Medal.
(2) Standard of Conduct Inquiry File.
(3) Statements of Affiliations and Financial Interests File.
(4) Privacy Act Request for Access File.

Report Date:

May 10, 1977.

Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense, Privacy Board (Room 5H-023), Washington, D.C. 20301.

Summary:

1. Superior Service Medal system is intended to keep a record of "names and relevant background information" on individuals who have been awarded this medal. 2. Standard of Conduct Inquiry File will be used "to process cases involving individuals alleged to have violated DOD standards of conduct regulations or the conflict of interest statutes." 3. Statements of affiliations and Financial Interests File is intended to implement the transfer of the function and requirement to review statements of affiliations and financial interests." 4. Privacy Act Request for Files will keep records of requests for access to records received by the Office of the Secretary of Defense and the Office of the Joint Chiefs of Staff.

AGENCY FOR INTERNATIONAL DEVELOPMENT

System Name:

Travel and Transportation Records.

Report Date:

May 13, 1977.

Point-of-Contact:

Mr. Rhea Johnson, Privacy Officer, Agency for International Development, Washington, D.C. 20523.

Summary:

This report proposes changes to the sytem of records to reflect additional categories of records and storage of records on magnetic tapes and discs.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-14533 Filed 5-20-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Acceptance of Petition for Review of Product Eligibility Under the Generalized System of Preferences; Correction

FR Doc. 77-13750 appears on page 24133 in the issue for Thursday, May 12, 1977. In the second line of item 2 of the description of the petition, the Tariff Schedules of the United States Item No. "147.55" should read "547.55."

WILLIAM B. KELLEY, Jr.,
Chairman,
Trade Policy Staff Committee.

[FR Doc.77-14507 Filed 5-20-77;8:45 am]

PRESIDENT'S COMMISSION ON MENTAL HEALTH

PUBLIC HEARINGS

In accordance with Section 10(A)(2) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following Presidential Commission public hearings during the month of June, 1977.

THE PRESIDENT'S COMMISSION ON MENTAL HEALTH

(1) June 20, 1977; 9:30 a.m. to 5 p.m., Doubletree Inn, 445 S. Alvernon, Tucson, Arizona 85711.
(2) June 21, 1977; 9:30 a.m. to 5 p.m., Sheraton Palace Hotel, 639 Market Street, San Francisco, California 94119.

Open public hearings.

Contact:

Mary Ann Orlando, Special Assistant to the Chairperson, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500—Tel: 202/456-7100.

Anyone wishing to testify at either of the above Public Hearings should notify the Commission in writing no later than June 10, 1977, indicating the name of organization or organizations, if any, being represented and the subject and particular point of view within the mental health area to be discussed. Requests to testify should be addressed to:

The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

Requests to testify will be accepted on a time available basis. Those who are scheduled to testify will be notified by the Commission.

Oral testimony will be limited to 8 minutes, followed by 4 minutes of questioning by the Commission. Additional written data in support of the testimony will also be made a part of the record and must be submitted at the time of testimony.

If time does not permit all to testify, presentations will be accepted in written form and made a part of the record of the proceedings, but must be submitted to the Commission at its offices within one (1) week of the hearing.

In addition, time will be alloted to permit individuals from the audience to testify for a maximum of 3 minutes. Requests to testify from the floor will be accepted at the time of the hearing and will be honored on the basis of time available and relevance of subject matter.

Purpose of Commission: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order No. 11973 and was directed to identify the mental health needs of the nation. In particular, the Commission shall seek to identify: How the mentally ill, emotionally disturbed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The Commission shall conduct such public hearing, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

Purpose of Public Hearings: Public hearings are designed to give Commissioners an opportunity to hear first hand the concerns of the American public directly related to the field of mental health.

Further information may be obtained from the above named person.

Attendance by the public will be limited to space available.

The Commission will furnish upon request transcripts of the public hearings at printing cost. Requests for such transcripts should be directed to: The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

BENEDICT J. LATTERI,
Administrative Officer, President's Commission on Mental Health.

MAY 16, 1977.

[FR Doc.77-14656 Filed 5-20-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13542; File No. SR-Amex-77-3]

AMERICAN STOCK EXCHANGE, INC.

Order Instituting Proceedings To Determine Whether Proposed Amendments to Part 1, "Original Listing Requirements," and Part 10, "Suspension and Delisting," of the American Stock Exchange's Company Guide Should Be Disapproved

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, New York 10006, has filed, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4, copies of a proposed rule change which would add section 117 to Part 1 and section 1003A to Part 10 of the Amex "Company Guide". Section 117 sets forth alternate criteria for the original listing of common stock, and section 1003A provides for the prospective application of certain delisting criteria with respect to issues which may be listed pursuant to the alternate criteria. Notice of the proposed changes together with the Amex's statement of the basis and purpose thereof was published in the FEDERAL REGISTER on March 24, 1977 (42 FR 15994).

PROCEEDINGS TO DETERMINE WHETHER TO DISAPPROVE PROPOSED AMENDMENTS TO PART 1 AND PART 10 OF THE AMEX COMPANY GUIDE (SR-AMEX-77-3)

The Commission is instituting proceedings pursuant to section 19(b)(2) of the Act to determine whether proposed additions to Parts 1 and 10 of the Exchange's "Company Guide" should be disapproved. Institution of proceedings appears appropriate at this time in view of the substantial legal and policy issues summarized below and does not necessarily indicate that the Commission has formulated any conclusions with respect to any of the issues involved.

GROUNDS FOR DISAPPROVAL UNDER CONSIDERATION

The stated purpose of the Amex proposal is to expand the universe of issuers who may qualify to list shares on the Exchange. This would result from the implementation of the alternate criteria because the latter do not contain any earnings criterion, in contrast to the Amex's present listing requirements for common stock. Nevertheless, we note that the proposed alternate criteria do provide substantially higher standards in certain categories than present numerical standards governing the original listing of such stock. Hence, the proposed amendments do not necessarily constitute an overall lowering of listing standards.

Of the issues which would qualify for listing under the alternate standards, some are currently traded solely in the over-the-counter ("OTC") market. To the extent that OTC issues become eligible and indeed are listed on the Amex, trading in these securities will be governed by the Amex's restrictions respecting off-board principal transactions. Under Amex Rule 5, which outlines the situations where a member may execute a transaction in a listed issue in the OTC market, there is no provision which permits a member, member organization, or affiliated person to act as an OTC market-maker in a listed issue.

In view of the foregoing, the Commission has decided to give notice at this time, pursuant to section 19(b)(2)(B) of the Act of the following grounds under consideration for disapproval of SR-Amex-77-3.

A. Section 6(b)(5) of the Act requires that the rules of national securities exchanges be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed modification of the Amex's listing standards would expand the potential universe of issues which would be subject to the Exchange's off-board principal trading restrictions. Accordingly, whether the Amex proposal would establish impediments in conflict with section 6(b)(5) is a ground under consideration for disapproval.[1]

[1] On December 19, 1975, the Commission issued an order (Release No. 11942) (41 FR 4507 (January 30, 1976)) adopting Rule 19c-1 under the Securities Exchange Act of 1934. This Rule provided for the elimination by January 3, 1977 of all exchange rules, policies, or practices which restricted the ability of members to effect agency transactions in listed equity securities (or those traded pursuant to unlisted trading privileges) OTC with a third market-maker or nonmember block positioner. In the release which announced the adoption of Rule 19c-1, the Commission acknowledged the anti-competitive effects of exchange restrictions on the ability of members to effect principal transactions off-board and stated that the viability of such restrictions would be reconsidered during the first quarter of 1977. At an open meeting held in Washington, D.C. on May 13, 1977, the Commission determined to require securities exchanges to eliminate restrictions such as those currently imposed by New York Stock Exchange Rule 390 respecting the ability of members to effect off-board principal transactions in listed issues. Further, January 1, 1978 was set as a deadline for such action.

B. Section 6(b) (8) of the Act requires that the rules of a national securities exchange not impose any undue burden on competition. As a consequence of the listing of a security previously ineligible for Amex listing, no Amex member would be able to act (or continue to act) as an OTC market-maker in such a security. The restrictions of Amex Rule 5 as applied to such newly-listed securities could thus diminish competition which currently exists among OTC market-makers in a particular security as well as potential competition between the OTC and Amex markets. Accordingly, the extent to which the Amex proposal may broaden the sweep of existing anti-competitive restrictions on off-board trading by its members and thereby proscribe the activities of members who may wish to do business as OTC market-makers is a ground under consideration for disapproval.

PROCEDURE

The Commission has determined to provide an opportunity for the presentation of data, views and arguments in conjunction with these proceedings. Interested persons are invited to submit written data, views and arguments within 30 days from the date hereof as to the Amex's rule proposals. Parties wishing to respond to any other person's submission should file a written response within 45 days hereof. Copies of SR-Amex 77-3 and of the submissions will be available for inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the Amex's submissions are also available at the principal office of the Amex. Persons desiring to make written statements should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14565 Filed 5-20-77;8:45 am]

[Release No. 20029; 70-6007]

ARKANSAS POWER & LIGHT CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

MAY 17, 1977.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $11,000,000 principal amount of its First Mortgage Bonds, percent Series due June 1, 2007. The interest rate on the bonds (which will be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to paid to Arkansas (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under Arkansas' Mortgage and Deet of Trust dated as of October 1, 1944, to Morgan Guaranty Trust Company of New York, Trustee, as heretofor supplemented and as to be further supplemented by a Twenty-ninth Supplemental Indenture to be dated as of June 1, 1977, which includes a prohibition until June 1, 1982, against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost.

Prior to the effective date of Arkansas' Twenty-eighth Supplemental Indenture dated as of July 1, 1975, Arkansas' Mortgage and Deed of Trust as amended provided that in the computation of the "two times interest" coverage test for the issuance of additional bonds, the amount of the company's nonoperating income (as defined) that may be taken into account would not exceed 15 percent of the sum of net operating income plus nonoperating income. This provision differs from the analogous provision of the Commission's Statement of Policy in respect of first mortgage bonds ("Policy Statement") adopted February 16, 1956 (HCAR No. 13105), which restricts the inclusion of nonoperating income to an amount not exceeding 10 percent of operating income. In recent years, the Indenture provision has resulted in higher computed interest coverages than would have resulted from the provision prescribed by the Policy Statement.

As a first step toward conforming the Indenture provision with that of the Policy Statement, Arkansas' Twenty-eighth Supplement Indenture dated as of July 1, 1975, amended the Indenture provision so as to provide that, effective with the first series of bonds to be issued after December 31, 1975, the amount of includable nonoperating income would not exceed 14 percent of the sum of net operating income plus nonoperating income. It is proposed in the instant filing that Arkansas' Twenty-ninth Supplemental Indenture to be dated as of June 1, 1977, provide that, effective with the first series of bonds to be issued after December 31, 1977, the amount of includable nonoperating income shall not exceed 13 percent of the sum of net operating income plus nonoperating income. It is contemplated that said percentage will be successively reduced further in future supplemental indentures so that the Indenture provision (including, ultimately, the base to which the percentage shall apply) will finally conform in substance with the analogous provision of the Policy Statement.

Arkansas proposes to utilize the net proceeds from the issuance and sale of the proposed bonds and preferred stock to pay $11,000,000 principal amount of its First Mortgage Bonds, 2⅞ percent Series due 1977, which mature on July 1, 1977. Fees and expenses incident to the proposed transaction are estimated at $140,000, including counsel fees of $38,500 and accountants' fees of $18,500. The fee of counsel for the successful bidders is estimated at $14,000 and is to be paid by the successful bidders.

The Arkansas Public Service Commission and the Tennessee Public Service Commission have jurisdiction over the proposed issuance and sale of the bonds. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 13, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14566 Filed 5-20-77;8:45 am]

[Release No. 34-13532; File. No. 4-191]

BOSTON STOCK EXCHANGE, INC., AND MIDWEST STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Filing of BSE/MSE Plan

The Boston Stock Exchange, Inc. (the "BSE"), and the Midwest Stock Exchange, Inc. (the "MSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on March 14, 1977.

The proposed plan provides that the self-regulatory organization designated to examine for compliance with applicable financial responsibility rules (the "designated examining authority" or

"DEA") pursuant to Rule 17d–1 (17 CFR 240.17d–1) ("section 240.17d–1") will be responsible for processing and acting on certain applications submitted by dual members. The exchange that is not the DEA ("other exchange") will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d–2, for applications to become regular equity or options members. MSE will be responsible for applications for options principal members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the DEA will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members. MSE will conduct such review in relation to MSE listed options. The DEA will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The DEA will be responsible for conducting examinations for compliance with finaricial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both the DEA and the other exchange reserve the right to participate in any special examination. The DEA will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval, and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements, and related agreements and amendments including clearing agreements.

Further, the DEA will be responsible for disciplinary investigations and proceedings involving dual members except insofar that the other exchange may assume jurisdiction in investigations relating to a transaction on the other exchange affecting a security listed on the other exchange or any other activity having a unique reference to the other exchange.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views, and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–191.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14580 Filed 5–20–77;8:45 am]

[Release No. 34–13536; File No. 4–195]

BOSTON STOCK EXCHANGE, INC., AND NEW YORK STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Filing of BSE/NYSE Plan

The Boston Stock Exchange, Inc. (the "BSE"), and the New York Stock Exchange, Inc. (the "NYSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d–2 (17 CFR 240. 17d–2) ("§ 240.-17d–2") on March 28, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The BSE will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d–2, for applications for BSE regular floor members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members except in relation to listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both BSE and NYSE reserve the right to participate in any special examination. It will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. The NYSE will submit to the BSE a computer run summarizing certain pre-defined key data from the monthly FOCUS Reports received by the NYSE from all NYSE members who are participants of Boston Stock Exchange Clearing Corporation ("BSECC"). BSE and NYSE agree to assist each other in examinations if requested due to geographical or other considerations. NYSE will also be responsible for review, approval, and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements, and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsible for disciplinary investigations and proceedings involving dual members except insofar that BSE may assume jurisdiction in investigations relating to a transaction on BSE affecting BSE listed security or any other activity having a unique reference to BSE.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–195.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14584 Filed 5–20–77;8:45 am]

[Release No. 34–13534; File No. 4–193]

BOSTON STOCK EXCHANGE, AND PACIFIC STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Filing of BSE/PSE Plan

The Boston Stock Exchange (the "BSE"), and the Pacific Stock Exchange, Inc. (the "PSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d–2 (17 CFR 240.17d–2) ("§ 240.17d–2") on March 18, 1977.

The proposed plan provides that the self-regulatory organization designated to examine for compliance with applicable financial responsibility rules (the "designated examining authority" or "DEA") pursuant to Rule 17d–1 (17 CFR 240.17d–1) ("§ 240.17d–1") will be responsible for processing and acting on certain applications submitted by dual members. The exchange that is not the DEA (the "other exchange") will, however, continue to be responsible, subject to further allocation pursuant to § 240.-17d–2, for applications to become regular equity or, if applicable, options members of the other exchange. The PSE will be responsible for applications for registered options principals and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the DEA will be responsible for reviewing

advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members except in relation to PSE listed options. The DEA will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The DEA will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both BSE and PSE reserve the right to participate in any special examination. The DEA will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval, and retention of all partnership agreements, corporate certificates, bylaws, subordinated loan agreements, and related agreements and amendments including clearing agreements. The DEA may request assistance of the other exchange in the conduct of any examination, because of geographical or other considerations.

Further, the DEA will be responsible for disciplinary investigations and proceedings involving dual members except insofar that the other exchange may assume jurisdiction in investigations relating to a transaction on the other exchange affecting a security listed on the other exchange or any other activity having a unique reference to the other exchange.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4-193.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77-14582 Filed 5-20-77;8:45 am]

[Release No. 20024; 70-6005]

CONSOLIDATED NATURAL GAS CO. ET AL.

Proposed Intrasystem Financing, Issuance and Sale of Commercial Paper and Short-Term Notes to Banks by Holding Company, and Exemption From Competitive Bidding

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020, CNG Coal Company; CNG Development Company Ltd.; CNG Producing Company; CNG Research Company; Consolidated Gas Supply Corporation; Consolidated Natural Gas Service Company, Inc.; Consolidated System LNG Company; The East Ohio Gas Company; The Peoples Natural Gas Company; The River Gas Company; West Ohio Gas Company (70-6005).

MAY 10, 1977.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and certain of its subsidiary companies, CNG Coal Company ("Coal Company"), CNG Development Company Ltd., CNG Producing Company ("Producing Company"), CNG Research Company ("Research Company"), Consolidated Gas Supply Corporation ("Gas Supply"), Consolidated Natural Gas Service Company, Inc. ("Service Company"), Consolidated System LNG Company ("LNG Company"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), The River Gas Company ("River"), and West Ohio Gas Company ("West Ohio") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes, from time to time during 1977, to make loans aggregating up to $79,000,000 to five subsidiary companies in the amounts set forth in the table below, primarily for the purpose of partially financing their 1977 capital expenditures. Capital expenditures for all of Consolidated's subsidiaries are estimated at $236,400,000 in 1977. The loans will be evidenced by nonnegotiable, long-term notes proposed to be issued by the respective subsidiary companies and proposed to be acquired by Consolidated. The notes will bear interest at a rate substantially equal to the effective cost of money to Consolidated in respect of its issuance and sale of $75,000,000 principal amount of debentures scheduled for June 1977 (File No. 70-6004) and will be payable from 1982 through 1997 in approximately equal annual principal amounts.

Prior to completion of said debenture financing in 1977 by Consolidated, the foregoing loans to said subsidiary companies for 1977 capital expenditures ($74,500,000) will be in the form of open account advances, payable on or before December 31, 1977, with interest at the prime commercial rate (presently 6.25 percent) in effect from time to time at The Chase Manhattan Bank, N.A. ("Chase Manhattan"), with a retroactive adjustment of the interest rate on the advances to conform with the effective cost of money to Consolidated through the sale of its debentures. Following the debenture financing by Consolidated, the interim open account advances to subsidiary companies, to the extent made at that time, will be converted into long-term notes of such subsidiary companies, and, thereafter, loans to subsidiary companies in 1977 for capital expenditures will be evidenced by the aforesaid long-term notes of such subsidiary companies.

Consolidated also proposes to issue and sell up to $100,000,000 of short-term notes to a group of banks during 1977. Such notes will bear interest at the prime commercial rate in effect from time to time at Chase Manhattan. Prepayments may be made in whole or in part, from time to time, upon five days' notice without penalty or premium. There will be no closing or related charges or commitment fee, and the notes will mature not more than twelve months from the date of the first borrowing. No compensating balance requirements will be imposed. The average of deposits regularly maintained by the Consolidated companies in the participating banks for normal operating purposes amounted to approximately $25,500,000 for 1976. It is stated that based on a requirement of 10 percent of the proposed credit line and 10 percent of average borrowings thereunder, the average compensating balances would have amounted to approximately $14,900,000 for the year 1976.

Consolidated proposes to use the proceeds from said bank borrowings to make open account advances to its subsidiary companies aggregating up to $100,000,000 for gas storage inventories, payable as gas is withdrawn and sold during the 1977-78 heating season. The advances to subsidiary companies will bear interest at the same rate as the related bank borrowings by Consolidated and will be made in amounts as set forth in the table below. Also shown on the following table are $37,000,000 of open account advances which Consolidated proposes to make from time to time up to May 31, 1978, to subsidiary companies for working capital requirements from part of the proceeds of Consolidated's proposed issuance and sale (described hereinafter) of up to $50,000,000 of commercial paper and/or notes to a bank. These advances will be repaid not more than one year from the date of the first advance to each subsidiary with interest at substantially the same effective rate as incurred by Consolidated on the related commercial paper sale and/or bank borrowings.

Subsidiary company	Long-term notes	Advances for seasonal increase in gas storage inventories	Advances for working capital requirements
Producing Company	$34,000,000		$5,600,000
Gas Supply	6,000,000	$87,000,000	11,500,000
LNG Company	34,000,000		
East Ohio		21,000,000	9,000,000
Peoples	4,300,000	12,000,000	7,600,000
River	700,000		600,000
West Ohio			1,600,000
Coal Company			300,000
Research Company			300,000
Service Company			500,000
	79,000,000	100,000,000	37,000,000

Consolidated further proposes to acquire, and the subsidiary companies set forth below propose to issue and sell to Consolidated from time to time during 1977, capital stock up to the following amounts at the par value thereof:

	Number of shares ($100 par)	Aggregate par value
Coal Company	30,000	$3,000,000
Producing Company	44,000	4,400,000
Research Company	17,000	1,700,000
Gas Supply	115,000	11,500,000
LNG Company	210,000	21,000,000
River	4,000	400,000
Total		42,000,000

The proceeds derived from the proposed sale of stock will be used to finance, in part, the subsidiaries' 1977 capital expenditures. The purchase of said capital stock by Consolidated will be made principally with funds from internal cash generation, and from the sale of common stock pursuant to its stockholder and employee stock plans. The authorized capital stock of Gas Supply, LNG Company, and River is not sufficient to cover the additional shares they propose to issue. Therefore, in order to accommodate the proposed transactions and to provide for future issues, Gas Supply proposes to amend its certificate of incorporation and increase the number of its authorized shares from 1,700,000 to 2,000,000, LNG Company from 750,000 to 1,000,000, and River from 20,000 to 24,000.

As indicated above, Consolidated proposes to issue and sell commercial paper, in the form of short-term promissory notes payable to bearer, in the aggregate face amount not to exceed $50,000,000 outstanding at any one time to a dealer in commercial paper from time to time up to May 31, 1978. The commercial paper will have varying maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $5,000,000 directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Consolidated proposes to sell commercial paper only so long as the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from a commercial bank on the date of sale.

No commission or fee will be payable by Consolidated in connection with the issue and sale of such commercial paper notes. The dealer, as principal, will reoffer such notes at a discount not to exceed one-eighth of one percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers on a list (nonpublic) prepared in advance by the dealer and furnished to the Commission. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by the dealer pursuant to a repurchase agreement, such paper will be reoffered only to others in the group of 200 customers. The issuance and sale of commercial paper is to provide $37,000,000 for working capital advances to subsidiary companies, and the balance of $13,000,000 is for working capital and contingent requirements of Consolidated during the year.

Consolidated proposes, to the extent that it becomes impracticable to issue such commercial paper, to borrow, repay, and reborrow from Chase Manhattan, from time to time up to May 31, 1978, an aggregate principal amount not to exceed $50,000,000 outstanding at any one time, at the prime commercial rate of interest in effect on the date of each borrowing, upon the promissory note or notes of Consolidated having a maturity date not more than 90 days from the date of each borrowing, and with the right of prepayment, in whole or in part at any time or from time to time, without prior notice and without premium. The amount of commercial paper notes and said notes, if any, payabe to Chase Manhattan will not collectively exceed $50,000,000 outstanding at any one time. There will be no closing or related charges and no commitment fee with respect to such bank loans, nor will there be any compensating-balance requirements.

Consolidated requests that, for the period commencing upon the date of the granting of this application-declaration and ending May 31, 1978, an exemption be allowed from the provisions of section 6(a) of the Act pursuant to the first sentence of section 6(b), relating to the issuance and sale of short-term notes, by increasing the 5 percent limitation on such notes to a maximum of 6 percent in order to permit Consolidated to have outstanding at any one time up to $50,000,000 principal amount of short-term notes during such period as proposed herein.

Consolidated requests exception from the competitive bidding requirements of Rule 50 with respect to the sale of commercial paper on the grounds that such commercial paper will have maturities of nine months or less, that current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications, and that it is not practical to invite competitive bids for commercial paper. Consolidated also proposes that the Rule 24 certificates of notification regarding the issuance and sale of the commercial paper and all subsidiary company financings be filed on a quarterly basis.

It is stated that CNG Development Company Ltd. had no new financing requirements for 1977 at the time of filing and that if such requirements should arise, an amendment to that effect will be filed as part of this proceeding.

The application-declaration states that the Public Service Commission of West Virginia has jurisdication over the proposed long-term and short-term borrowings and stock issuances of Gas Supply; that the Public Utilities Commission of Ohio has jurisdiction over the long-term borrowings and stock issuance proposed by River; and that the Pennsylvania Public Utility Commission has jurisdiction over the long-term borrowings proposed by Peoples. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $10,500, including $8,000 for the system service company charges, at cost. All of such fees and expenses are to be paid by Consolidated.

Notice is further given that any interested preson may, not later than June 3, 1977, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is

ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14567 Filed 5-20-77;8:45 am]

[Release No. 20025; 70-6011]

GENERAL PUBLIC UTILITIES CORP.

Proposed Issue and Sale of Common Stock by Holding Company Pursuant to an Underwritten Rights Offering

MAY 12, 1977.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 260 Cherry Hill Road, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"). designating sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

GPU proposes to offer up to 3,770,000 authorized but unissued shares of its common stock for subscription by the holders of its outstanding shares of common stock on the basis of 1 share for each 15 shares of common stock held on the record date. The record date will be June 30, 1977, or such later date as GPU's registration statement under the Securities Act of 1933 may become effective. The subscription price, to be determined by GPU at about 4:15 p.m. on the day preceding the anticipated record date, will not be more than 100 percent and not less than 85 percent, of the closing price of GPU common stock on the Consolidated Tape on the day prior to the record date. The subscription offer will expire July 22, 1977, unless the record date should be later than June 30, 1977, in which event the expiration date will be specified by amendment.

In connection with the subscription rights offering, GPU anticipates that it may effect stabilizing transactions in order to maintain the market price of its common stock at a level above that which might otherwise prevail in the open market. GPU states that it acquire no more than 300,000 shares of its common stock pursuant to these stabilizing activities. The aggregate of the shares of common stock offered pursuant to the subscription offer, including the shares, if any, purchased by GPU in connection with such stabilizing activities, are hereinafter referred to as "additional common stock."

Rights to subscribe to the additional common stock wil be evidenced by transferable subscription warrants which will be issued to all record holders of GPU common stock as promptly as practicable after the record date. No fractional shares wil be issued; however, any holder with more than 15 shares, but not an exact multiple thereof, may purchase, at the subscription price one extra share of additional common stock. A stockholder with less than 15 shares of common stock will be entitled to purchase, at the subscription price, one full share of additional common stock.

In addition, each holder of a warrant or warrants who exercises such warrant or warrants in full will be given the privilege of subscribing, subject to allotment, at the same subscription price, for unsubscribed shares of additional common stock ("over-subscription privilege"). GPU proposes to take such action as is appropriate to effect the admission for trading of the subscription rights on the New York Stock Exchange.

GPU does not propose to mail warrants to stockholders whose registered addresses are outside the United States, Bermuda, Canada and Mexico. To the extent that GPU does not receive instructions from such stockholders to exercise their warrants, the rights evidenced by such warrants may be sold by Hartford National Bank and Trust Company, the subscription agent, for the account of such stockholders.

GPU further proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, such of the shares of the additional common stock as are not purchased pursuant to the subscription offer. The subscription price, which will also be the price to be paid by the successful bidder or bidders, will be set by GPU at least 45 minutes before the time of submitting bids. GPU will pay the underwriters for their commitments and obligations a fixed sum, to be supplied by amendment, plus an amount per share to be specified in the bid for each unsubscribed share purchased and for each share purchased by underwriters upon the exercise of rights purchased (but excluding any additional common stock purchased pursuant to the over-subscription privilege).

It is stated that the net proceeds of the sale of additional common stock will be applied by GPU to repay at or before maturity all or a portion of GPU's short-term indebtedness incurred to make additional investments in subsidiaries, to make additional investments in subsidiaries, and/or to reimburse its treasury for prior investments in its subsidiaries.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 7, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14568 Filed 5-20-77;8:45 am]

[Release No. 9763; 812-4079]

INVESTORS MUTUAL, INC., ET AL.

Application for an Order of Act To Permit Offers of Exchange and for Exemption From Provisions

MAY 11, 1977.

In the matter of Investors Mutual, Inc.; Investors Stock Fund, Inc.; Investors Variable Payment Fund, Inc.; Investors Selective Fund, Inc.; IDS New Dimensions Fund, Inc.; IDS Progressive Fund, Inc.; IDS Bond Fund, Inc.; IDS Cash Management Fund, Inc.; IDS Tax-Exempt Bond Fund, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402, and Investors Diversified Services, Inc., IDS Tower, Minneapolis, Minnesota 55402.

Notice is hereby given that Investors Mutual, Inc. ("Mutual"), Investors Stock Fund, Inc. ("Stock"), Investors Variable Payment Fund, Inc. ("Variable"), Investors Selective Fund, Inc. ("Selective"), IDS New Dimensions Fund, Inc. ("Dimensions"), IDS Progressive Fund, Inc. ("Progressive"), IDS Bond Fund, Inc. ("Bond"), IDS Cash Management Fund, Inc. ("Cash Management"), and IDS Tax-Exempt Bond Fund, Inc. ("Tax-Exempt") (collectively referred to as "the Funds"), open-end investment companies registered under the Investment Company Act of 1940 ("Act"), and Investors Diversified Services, Inc. ("IDS"), each Fund's investment adviser and principal underwriter (collectively referred to with the Funds as "Applicants"), filed an application on January 21, 1977, for an order of the Commission, pursuant to section 11(a) of the Act, permitting certain transfers among the Funds on a basis other than their net asset value per share at the time of

transfer and, pursuant to section 6(c) of the Act, exempting such transfers from the provisions of section 22(d) of the Act and Rule 22d–1 thereunder. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below.

IDS, as principal underwriter for the Funds, maintains a continuous public offering of shares of each of the Funds at their respective net asset value plus a sales charge. On purchases of less than $15,000, the sales charge is 3½ percent Bond, 4¾ percent for Tax-Exempt, 7 percent for Selective and 8 percent for each of the other Funds except Cash Management, which does not have a sales charge. For each of the Funds, the sales charge is reduced on larger purchases, except for Bond which has a level 3½ percent sales charge.

Mutual, Stock, Variable, Progressive, and Dimensions propose to offer their shares to shareholders of Selective, Bond, or Tax-Exempt who have held their shares for less than eight months and who redeem their shares and immediately reinvest in its shares, on payment of the difference between the sales charge paid upon the purchase of shares of Selective, Bond, or Tax-Exempt and the sales charge that would have been paid had the offering Fund's shares been purchased originally. Shareholders of Selective, Bond, or Tax-Exempt who have held their shares for eight months or more will be allowed to transfer to the other Funds at net asset value without paying a sales charge. No transfers will be allowed into Cash Management from Selective, Bond, or Tax-Exempt earlier than eight months. Shareholders of the other Funds do not have the privilege of transferring into Bond Fund.

Selective proposes to offer its shares to shareholders of Tax-Exempt or Bond who have held their shares for less than eight months and who redeem their shares and immediately reinvest in shares of Selective, on payment of the difference between the sales charge paid upon the purchase of shares of Tax-Exempt or Bond and the sales charge that would have been paid had the investment been in Selective originally. Shareholders of Tax-Exempt or Bond who have held their shares for eight months or more will be allowed to transfer into Selective at net asset value without paying a sales charge.

Tax-Exempt proposes to offer its shares to the shareholders of the other Funds, except Cash Management, who have held their shares for less than eight months and who redeem their shares and immediately reinvest in shares of Tax-Exempt, on payment of the difference between the sales charge paid on the shares of the other funds from which the transfer is being made and the sales charge that would have been paid had the investment been in Tax-Exempt originally. Shareholders of the other Funds, except Cash Management, who have held their shares for more than eight months, will be permitted to transfer into Tax-Exempt at net asset value without paying a sales charge.

In each case, the reason for the eight month "waiting period" is to discourage attempts at circumventing the higher sales charge which would have been applicable on the shares of the Fund into which the transfer is being made had these shares been purchased initially. For purposes of calculating the eight month period, the length of time the investment has been in the complex of the Funds will be included. In addition, no sales charge will be imposed upon a transfer of shares which were acquired originally at net asset value, except shares of Cash Management acquired by direct purchase, and such shares will be transferred first.

Each of the Funds, except Bond, proposes to offer its shares to the shareholders of Cash Management who redeem their shares and immediately reinvest in its shares on the basis of the net asset value at the time of the transfer, plus the sales charge described in the prospectus of each of the Funds. The additional sales charge would be imposed only upon the transfer of shares of Cash Management originally acquired by direct purchase. Shares of Cash Management that were acquired as the result of a transfer from one of the other Funds will be transferred at net asset value without a sales charge, and such shares will always be transferred first.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make, or cause to be made, an offer to the shareholder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds is normally greater than the sales charge which would be applicable to a proposed transfer. Rule 22d–1 permits certain variations in sales load, none of which it is alleged are applicable to the proposed transfer privileges.

Applicants state that the purpose of the proposed transfer privileges and the eight month restriction, where applicable, is to discourage attempts to circumvent the higher sales charges that could occur were an investor to purchase a Fund with a lower sales charge and, subsequently, transfer the investment at net asset value for an investment in one of the other Funds which imposes a higher sales charge than the Fund originally purchased. Applicants further state that under certain circumstances it might be found that IDS, as underwriter for all the Funds, would be violating section 22(d) of the Act, since an investor would be able to purchase shares of one of the other Funds at a sales charge other than that described in the prospectus merely by purchasing shares of Selective, Bond or Tax-Exempt and subsequently transferring those shares after eight months at net asset value into shares of one of the other Funds. Appropriate disclosure of the terms of the proposed transfer privileges will be made in the prospectuses of each of the Funds.

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 6, 1977, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14571 Filed 5–20–77;8:45 am]

[Release No. 9765; 811-1832]

LINCOLN NATIONAL INCOME FUND, INC.

Filing of Application of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

MAY 12, 1977.

Notice is hereby given that Lincoln National Income Fund, Inc. ("Applicant"), 1301 South Harrison Street, Fort Wayne, Indiana 46801, an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The Applicant was incorporated under the laws of the State of Delaware on January 22, 1969, and registered with the Commission under the Act on August 11, 1969. Applicant states that on October 27, 1976, its shareholders approved an Agreement and Plan of Reorganization ("the Agreement") which provided for the sale by Applicant of substantially all of its assets to Selected American Shares, Inc. ("American"). On November 17, 1976, pursuant to the Agreement, 466,943,935 shares of American were delivered to the Applicant, representing an exchange ratio of 1.2461 shares of American for each share of Applicant outstanding. Applicant states further that such shares were delivered to or credited to the accounts of shareholders of Applicant according to their respective interests in liquidation of the Applicant.

Applicant states that on December 16, 1976, it filed a certificate of dissolution with the Secretary of State of Delaware. Applicant represents that it now has no stockholders, no assets or liabilities, and engages in no business activity.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc.77-14569 Filed 5-20-77;8:45 am]

[Release No. 9766; 811-1831]

LINCOLN NATIONAL CAPITAL FUND, INC.

Filing of Application of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

MAY 12, 1977.

Notice is hereby given that Lincoln National Capital Fund, Inc. ("Applicant"), 1301 South Harrison Street, Fort Wayne, Indiana 46801, an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The Applicant was incorporated under the laws of the State of Delaware on January 22, 1969, and registered with the Commission under the Act on August 11, 1969. Applicant states that on October 27, 1976, its shareholders approved an Agreement and Plan of Reorganization ("the Agreement") which provided for the sale by Applicant of substantially all of its assets to Selected Special Shares, Inc. ("Special"). On November 17, 1976, pursuant to the Agreement, 434,615.444 shares of Special were delivered to the Applicant, representing an exchange ratio of 0.4492 shares of Special for each share of Applicant outstanding. Applicant states further that such shares were delivered to or credited to the accounts of shareholders of Applicant according to their respective interests in liquidation of the Applicant.

Applicant states that on December 16, 1976, it filed a certificate of dissolution with the Secretary of State of Delaware. Applicant represents that it now has no stockholders, no assets or liabilities, and engages in no business activity.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commisison, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14570 Filed 5-20-77;8:45 am]

[Release No. 34-13535 File No. 4-189]

MIDWEST STOCK EXCHANGE, INC. AND NEW YORK STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Filing of MSE/NYSE Plan

The Midwest Stock Exchange, Inc. (the "MSE") and the New York Stock Exchange, Inc. (the "NYSE") filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on March 7, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The MSE will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d-2, for applications for MSE equity or options members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions. The NYSE will advise the MSE monthly of certain changes

in membership information for dual members.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television and writing and speaking activities of dual members except in relation to MSE listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both MSE and NYSE reserve the right to participate in any special examination. It will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. The NYSE will submit to the MSE a computer run summarizing certain pre-defined key data from the monthly FOCUS Reports received by the NYSE from all NYSE members who are participants of Midwest Clearing Corporation (MCC). MSE and NYSE agree to assist each other in examinations if requested due to geographical or other considerations.

NYSE will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsbile for disciplinary investigations and proceedings involving dual members except insofar that MSE may assume jurisdiction in investigations relating to a transaction on MSE, affecting an MSE-listed security or any other activity having a unique reference to MSE.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Wahington, D.C. 20549, Reference should be made to File No. 4-189.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77-14583 Filed 5-20-77;8:45 am]

[Release No. 34-13533 File No. 4-192]

MIDWEST STOCK EXCHANGE, INC. AND PACIFIC STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Filing of MSE/PSE Plans

The Midwest Stock Exchange, Inc. (the "MSE"), and the Pacific Stock Exchange, Inc. (the "PSE") filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on March 15, 1977.

The proposed plan provides that the self-regulatory organization designated to examine for compliance with applicable financial responsibility rules (the "designated examining authority" or "DEA") pursuant to Rule 17d-1 (17 CFR 240.17d-1) ("§ 240.17d-1") will be responsible for processing and acting on certain applications submitted by dual members. The exchange that is not the DEA ("the other exchange") will, however, continue to be responsible, subject to further allocation pursuant to § 240.-17d-2, for applications to become equity or options members.

In addition, under the proposed plan, the DEA will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television and writing and speaking activities of dual members. The DEA will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The DEA will be responsible for conducting examinations for compliance with financial, operational and sales supervision by dual members, as well as all special examinations except that both MSE and PSE reserve the right to participate in any special examination. The DEA will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. The DEA will submit to MSE, for all PSE members who are participants of Midwest Clearing Corporation ("MCC"), for which PSE is the DEA, and the MSE will submit to the PSE, for all MSE members who are participants of Pacific Clearing Corporation ("PCC") for which MSE is the DEA, a summary of certain pre-defined key data from the monthly FOCUS Reports or a copy of such FOCUS Reports. It will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements and related agreements and amendments including clearing agreements. MSE and PSE have agreed to assist each other in the conduct of examinations where requested to do so for geographical or other considerations.

Further, the DEA will be responsible for disciplinary investigations and proceedings involving dual members except insofar that the other exchange may assume jurisdiction in investigations relating to a transaction on the other exchange affecting security listed on the other exchange or any other activity having a unique reference to the other exchange.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4-192.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77-14581 Filed 5-20-77;8:45 am]

[Release 34-13528 File No. SR-NASD-77-5]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations

Pursuant to Section 19(B)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on February 10, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

Amendments to Appendix A of Section 30 were previously filed with the Commission by the Association in File No. SR-NASD-75-2. Subsequent discussions with Commission staff have led to amendments to the proposal and consequently File No. SR-NASD-75-2 is hereby withdrawn and in its place is substituted the filing below. New language is italicized and deleted language is bracketed.

1. (a) *Text of Proposed Rule Change*

The following is the full text of the proposed amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

SECTION 1—UNCHANGED
SECTION 2—UNCHANGED
SECTION 3—UNCHANGED
SECTION 4 (a)(1),(2), (3)—UNCHANGED

MINIMUM MARGIN

4(a) [(4) Minimum maintenance requirements for put and call options shall be:

(i) 50 percent of the exercise price of any put option or 50 percent of the market value of the security subject to such put options, whichever is lower;

(ii) 50 percent of the exercise price of any call option or 50 percent of the market value of the security subject to such call option, whichever is higher; sold by such customer to or through the member if the customer's account does not contain the corresponding long or short positions in the securities upon which the options are written and,]

(4) Minimum maintenance requirements for any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) in the case of puts and calls traded in the over-the-counter market, which are not displayed in the NASDAQ System, 50 percent of the market value of the equivalent number of shares of the underlying securities, plus any unrealized loss or less any unrealized profit;

(ii) in the case of puts and calls listed or traded on a registered national securities exchange, or displayed in the NASDAQ System, 30 percent of the market value of the equivalent number of shares of the underlying security, plus any unrealized loss or less any unrealized profit;

(iii) notwithstanding the foregoing, the minimum margin on each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than $250; and,

SECTION 5, 6—UNCHANGED

SECTION 7

PUT AND CALL OPTIONS

[(a) No put or call option carried for a customer shall be considered of any value for the purpose of computing the margin required in the account of such customer;

(b) A put or call sold or written by a customer shall be considered as a security transaction subject to Section 2 hereof;

(c) For the purpose of Section 4 hereof, puts and calls shall be considered as if they were exercised. Each put or call shall be margined separately and any difference between the market price of the underlying securities and the exercise price of a put or call shall be considered to be of value only in providing the amount of margin required on that particular put or call.]

(a) Each put or call shall be margined separately. Any difference between the market price of the underlying security and the exercise price of a put or call will be of value only in providing margin on that particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration (generally, more than six months and ten days), or written on securities subject to unusually rapid or abrupt changes in value, or which do not have an active market, or when the securities subject to the option cannot be liquidated promptly.

(b) If both a put and a call for the same number of shares of the same security are issued, guaranteed or carried "short" for a customer, the margin shall be the greater of that required on either the put or the call, except that:

(i) The $250 minimum margin requirement shall apply to only one of the options, and

(ii) If there is unrealized loss on the other option, the amount of margin required shall include that unrealized loss.

(c) When a call that is listed or traded on a registered national securities exchange or displayed in the NASDAQ System, is carried "long" for a customer's account and the account is also "short" a call listed or traded on a registered national securities exchange or displayed in the NASDAQ System, expiring on or before the date of expiration of the "long" listed call and written on the same number of shares of the same security, the margin required on the "short" call shall be the lower of

(i) The margin required pursuant to Section 4(a)(4)(ii) above, or

(ii) The amount by which the exercise price of the "long" call exceeds the exercise price of the short call.

(d) When a put that is listed or traded on a registered national securities exchange or displayed in the NASDAQ System is carried "long" for a customer's account and the account is also "short" a put listed or traded on a registered national securities exchange or displayed in the NASDAQ System expiring on or before the date of expiration of the "long" listed put and written on the same number of shares of the same security, the margin required on the "short" put shall be the lower of:

(i) The margin required pursuant to Section 4(a)(4)(ii) above, or

(ii) The amount by which the exercise price of the "short" put exceeds the exercise price of the "long" put.

(e) When a call is issued guaranteed or carried "short" against an existing net "long" position in the security under option or in any security exchangeable or convertible into the security under option within a reasonable time without restriction other than the payment of money, no margin needs be required on the call provided:

(i) Such net "long" position is adequately margined in accordance with this Rule, and

(i) The right to exchange or convert the net "long" position does not expire on or before the date of expiration of the "short" call, and

(iii) The conversion price of the exchangeable or convertible security does not exceed the exercise price of the call.

(f) When a call is issued, guaranteed or carried short against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call.

(g) When a put is issued, guaranteed or carried "short" against an existing net "short" position in the security under option, no margin need be required on the put, provided such net "short" position is adequately margined in accordance with this Rule.

(h) When determining net "long" and net "short" positions, offsetting "long" and "short" positions in exchangeable or convertible securities or in the same security shall be deducted. When computing margin on such an existing net stock position carried against a put or call, the current market price used shall not be greater than the call price in the case of a call or less than the put price in the case of a put. If a payment of money is required to exchange or convert the net "long" security, such security shall have no value for the purposes of this Rule.

(i) When a member issues or guarantees an option to receive or deliver securities for a customer, such option shall be margined as if it were a put or call.

(j) An exchangeable or convertible security shall cease to have margin purposes as of its expiration date and cannot be used thereafter for purposes of this Rule.

SECTIONS 8–14—UNCHANGED

SECTION 15

ACCRUED INTEREST

(a) Accrued interest may not be credited to an account except as provided in paragraph (b).

(b) A member may credit to a customer's account accrued interest in obligations issued or unconditionally guaranteed by the U.S. Government or any agency thereof provided that such securities are registered in the member's name or that of its nominee or, in the case of bearer bonds, are in the possession of the member and, provided further, that on a concurrent basis accrued interest on the outstanding debit balance in that account is entered as of the same date.

PURPOSE OF PROPOSED RULE CHANGE

The amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice will cause the NASD margin requirement on options contracts to conform to a uniform standard proposed by the Securities and Exchange Commission and adopted by all the principle stock exchanges.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 7(c) of the Securities Exchange Act of 1934 provides that it shall be unlawful for any broker or dealer, directly or indirectly, to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer on any security (other than

an exempted security) in contravention of the rules and regulations which the Board of Governors of the Federal Reserve System shall prescribe. On July 8, 1969 the Federal Reserve Board adopted amendments to their regulations designed principally to broaden its control of credit on over-the-counter securities. Under these amendments those OTC stocks meeting certain criteria and debt securities convertible into such stocks became subject to margin requirements. Section 15A(b)(6) provides that a national securities association shall not be registered with the Commission unless it is determined that the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. Section 30 of the Rules of Fair Practice provides that a member shall not effect a securities transaction in a margin account in a manner contrary to the requirements adopted by the Board of Governors and is intended to prevent manipulative acts, promote just and equitable principles of trade and in general protect investors and the public interest.

COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS, OR OTHERS ON THE PROPOSED RULE CHANGE

Because Section 30 of Article III of the Rules of Fair Practice authorizes the Board of Governors alone to establish the minimum amounts of initial and maintenance margin required to be obtained by members from customers, comments of the membership on the proposed amendment to Appendix A were not solicited or received.

BURDEN ON COMPETITION

It is felt that the proposed rule change imposes no burden on competition not necessary in the furtherance of the purposes of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities associations, and in particular, the requirements of Section 15A and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Such action is necessary to achieve uniformity among the options margin rules of the several self-regulatory organizations, and to lessen the burden of compliance imposed upon members of more than one such organization.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 13, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 11, 1977.

[FR Doc.77-14578 Filed 5-20-77;8:45 am]

[Release No. 20026; 70-5543]

NEW ENGLAND ELECTRIC SYSTEM AND NEW ENGLAND ENERGY INC.

Proposed Agreement for Sale of Fuel Between Affiliates

MAY 13, 1977.

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and New England Energy Incorporated ("NEEI"), 20 Turnpike Road, Westborough, Massachusetts 01581, its subsidiary energy company, have filed post-effective amendments to their application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 43 and 45(a) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendments, for a complete statement of the proposed transactions.

By order dated October 30, 1974 (HCAR No. 18635) issued in this proceeding, NEES was authorized to organize NEEI and to acquire its capital stock. NEEI was authorized to enter into a partnership arrangement with an unaffiliated company to explore for and develop oil and gas deposits. Jurisdiction was reserved over any transactions between NEEI and its associate companies which are subject to sections 12(f) or 13 of the Act and Rules 80–85 thereunder By order dated June 17, 1976 (HCAR No. 19580), NEES was granted an extension of time to invest an additional amount of cash in NEEI to finance fuel exploration and development activities through 1979, subject to the prior reservation of jurisdiction.

By post-effective amendment filed in this proceeding, it is stated that as a result of the initial production of small amounts of oil and gas from a fuel exploration and development program involving NEEI, NEEI is now ready to enter into fuel transactions with its affiliate, New England Power Company ("NEPCO"). NEPCO is the primary source of generation of electricity in the NEES system. NEEI and NEPCO would enter into a fuel purchase contract ("contract") covering the sale of fuel on terms described below.

NEEI proposes to exercise any or all of the following three methods of sale of fuel to NEPCO. It is stated that the choice of method or methods will depend on NEPCO's fuel needs, conditions in the spot market for various fuels, operational constraints of the producing wells and other factors. These options open to NEEI are described as follows:

(1) Arrange to refine the fuel produced through nonaffiliated refineries and sell the product directly or indirectly to NEPCO and the byproducts to nonaffiliates, unless usable to NEPCO.

(2) Exchange with non-affiliates the fuel produced, for fuel meeting the requirements of NEPCO.

(3) Sell the fuel produced to nonaffiliates and use the proceeds to purchase fuel meeting the requirements of NEPCO.

Sale of the fuel under the contract will be made to NEPCO at prices determined as follows:

(a) In the case of (1) above, the price will be NEEI's cost for fuel produced, as defined below; and the subsequent production, refining, transportation, and any other costs of the fuel less the net proceeds from the sale of byproducts.

(b) In the case of (2) above, the price will be NEEI's cost as defined below, for the quantity of fuel produced and exchanged to obtain fuel meeting the requirements of NEPCO, plus any transportation.

(c) In the case of (3) above, the price charged to NEPCO will be the cost of the fuel purchased to meet NEPCO's needs minus or plus, as the case may be, the difference between the revenues from and costs of production associated with the sale of the fuel produced by NEEI and sold to nonaffiliates, minus in the event that revenues exceed costs and plus in the event that cost exceed revenues, plus any transportation or other costs associated with the transaction.

NEEI's "cost" for fuel produced will be all exploration, development, general and administrative, capital and other costs as capitalized into a "full cost pool". The costs in the full cost pool will be charged to income quarterly on the unit of production basis over the total estimated equivalent barrels of reserves. Costs, including capital costs, incurred by NEEI during the period from inception to the approval by this Commission of a fuel pricing policy for NEEI will also be placed in the full cost pool.

It is proposed to determine capital costs for NEEI in the following manner: For the purpose of determining capital costs for NEES investments in NEEI, it will be assumed that NEEI's total capitalization (excluding accumulated deferred federal income taxes) has a structure equal to the permanent capitaliza-

tion of NEPCO (excluding short-term debt and accumulated deferred federal income taxes). Tax savings arising from NEEI's activities, as exempted by this Commission from the consolidated tax allocation provisions of Rule 45(B)(6) under the Act (HCAR No. 18635), are being reinvested in NEEI at zero capital cost.

Capital costs, including the effect of Federal income taxes, are proposed to be computed quarterly and will be included in the full cost pool. The cost of debt or other forms of financing of NEEI from nonaffiliated sources will be placed into the full cost pool at actual cost. Such financing from outside sources will be included in NEEI's imputed capital structure for the purpose of determining the character of subsequent NEES investments in NEEI. NEES investments after outside financings will be allocated first to common equity until equal to the common equity percentage component of the total imputed capital structure, then to preferred, and then to debt until the total NEEI imputed capital structure equals the capital structure of NEPCO. Thereafter, NEES investments will be spread based on the imputed capital structure of NEPCO. Each investment in NEEI by NEES will seek to maintain the capital structure determined above and will have a cost determined as follows:

(i) The cost of debt and preferred stock applied to the imputed capital structure for NEES investments in NEEI shall be equal to the actual cost of NEPCO's debt and preferred stock issue most recently preceding the respective dates of the NEES investments in NEEI: *Provided, however,* If the most recent NEPCO debt and preferred stock issue occurred more than twelve (12) months prior to the date of investment then the cost of debt and preferred stock shall be the actual cost of the most recent NEPCO debt and preferred stock issues until the date of the next subsequent NEPCO debt and preferred stock issue from which date the cost previously determined as aforesaid shall be recomputed from that time forward to equal the cost of the subsequent issue.

(ii) The cost of common equity applied to the imputed NEPCO capital structure for NEES investments in NEEI shall be equal in each case to the rate of return on common equity provided under the terms of the unit power sales contract of NEPCO permitted to become effective without provision for refund, by the Federal Power Commission most recently preceding the respective dates of NEES investments in NEEI.

By prior order issued in this proceeding, NEEI was also authorized to assume various fuel procurement and inventory activities previously pursued by affiliates. To the extent that NEEI becomes involved in such activities, it is proposed that fuel purchased for storage purposes will be priced at the actual incurred cost and will be segregated from the full cost pool. NEEI's cost for such fuel purchased and sold to affiliates will include invoice cost plus all transportation, operation, storage, inventory, shrinkage, capital, general, administrative and other costs directly attributable to the fuel in storage.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction. Any fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than June 8, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said posteffective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14572 Filed 5-20-77;8:45 am]

[Release No. 13530; SR-NESDTCO-77-5]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change Relating To Participation in Depository Trust Company

MAY 11, 1977.

On March 24, 1977, the New England Securities Depository Trust Company ("NESDTC"), 53 State Street, Boston, Massachusetts 02109, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would establish NESDTC as a participant in The Depository Trust Company.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 17929, April 4, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13408, March 28, 1977. No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-NESDTCO-77-5 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14573 Filed 5-20-77;8:45 am]

[Release No. 34-13531; File No. 4-194]

NEW YORK STOCK EXCHANGE, INC., AND PACIFIC STOCK EXCHANGE

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Filing of NYSE/PSE Plan

The New York Stock Exchange, Inc. (the "NYSE"), and the Pacific Stock Exchange (the "PSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on March 21, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The PSE will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d-2, for applications for PSE floor members or options principal members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving transactions.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members, except in relation to PSE listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations except that both PSE and NYSE reserve the right to participate in any special examination. NYSE will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FO

CUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, bylaws, subordinated loan agreements and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsible for disciplinary investigations and proceedings involving dual members except insofar that PSE may assume jurisdiction in investigations relating to a transaction on PSE affecting a PSE-listed security or any other activity having a unique reference to PSE.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–194.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

May 12, 1977.

[FR Doc.77–14579 Filed 5–20–77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 12, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

American Airlines, Inc., File No. 7–4942, warrants (expiring April 1, 1984).

Upon receipt of a request, on or before May 28, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such requests should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14574 Filed 5–20–77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 12, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Gerber Products Company, File No. 7–4944, common stock, $2.50 par value.

Upon receipt of a request, on or before May 28, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14575 Filed 5–20–77;8:45 am]

[Release No. 13529]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 11, 1977.

In the matter of the Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia Pennsylvania 19103 (SR–PHLX–77–4).

On March 29, 1977, the Philadelphia Stock Exchange, Inc. ("PHLX"), filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change. The proposed rule change would amend the PHLX fidelity bonding requirements for members and member organizations by adjusting the minimum required bonding coverage for members operating pursuant to the provisions of subparagraph (b)(2) of the Commission's Uniform Net Capital Rule and by clarifying the minimum required bonding coverage for those members operating under the alternative net capital provisions set forth in paragraph (f) of the Commission's Uniform Net Capital Rule, among other things.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13421 (April 1, 1977)) and by publication in the FEDERAL REGISTER (42 FR 19204 (April 12, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 29, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14576 Filed 5–20–77;8:45 am]

[Release No. 34–13537; File No. 4–187]

SELF-REGULATORY ORGANIZATIONS

Program for Allocation of Regulatory Responsibilities Pursuant to § 240.17d–2; Extension of Filing Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for filing plans.

SUMMARY: Rule 17d–2 and the adopting release specify that self-regulatory organizations may file with the Commission initial plans for allocation of regulatory responsibilities for members or participants which they have in common on or before March 15, 1977, or at such later date as the Commission may determine subsequent to the hearings on the implementation of the Rule. The Commission has extended the time for filing such initial plans until May 15,

1977, or such later date as the Commission may specify.

DATES: Plans on or before May 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549 (202-755-1390).

On October 28, 1976, in Securities Exchange Act Release No. 34-12935, 41 FR 49091 (November 8, 1976), the Commission adopted 17 CFR § 240.17d-2 (hereinafter § 240.17d-2) under Section 17(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)). It calls upon self-regulatory organizations to propose to the Commission a plan or series of plans for allocating regulatory responsibilities with respect to members or participants which they have in common.

BACKGROUND

Section 240.17d-2 and the adopting release provide that self-regulatory organizations may file such plans within ninety (90) days of the effective date of the section or at such later date as the Commission may otherwise determine subsequent to the hearings conducted with respect to the implementation of the section. Thereafter, plans may be filed as changes in designation are necessary or appropriate.

Section 240.17d-2 became effective on December 15, 1976. Initial plans were to be filed with the Commission on or before March 15, 1977.

EXTENSION OF TIME FOR FILING PLANS

A large number of the self-regulatory organizations have requested that the Commission extend the time for filing initial plans beyond March 15, 1977 (File No. 4-187). Each of the requests indicates that substantial progress has been made in reaching agreement for the allocation of responsibilities. To date, self-regulators have filed six (6) plans for allocation with the Commission.[1] In addition, a number of self-regulators have reached conceptual agreement on the terms of plans and final drafts are in preparation. They have stated, however, that formal approval of plans by their governing bodies and execution of approved plans will be delayed beyond March 15, 1977.

Self-regulators have also suggested that an extension of the filing date will permit them to explore the possibility of agreement in additional areas where duplication currently or potentially exists. In particular, they assert that an extension would facilitate discussion of formal allocations of responsibilities between the exchanges or the NASD and their subsidiaries which are deemed to be self-regulatory organizations by virtue of Section 3(a)(26) of the Securities Exchange Act of 1934, as amended. They indicate that significant progress may also be made in the allocation of responsibility for the collection, processing, and maintenance of registration information and in the coordination of joint examinations for any broker or dealer which is a member of or participant in more than one self-regulatory organization and is subject to multiple examinations.

In light of the progress to date in the formulation of plans for allocation of responsibilities and the continuing efforts of self-regulators to increase the scope of these plans, the Commission has determined to extend the time for filing initial plans until May 15, 1977.

By the Commission.

GEORGE A. FITZSIMMON,
Secretary.

MAY 12, 1977.

[FR Doc.77-14585 Filed 5-20-77;8:45 am]

[File No. 500-1]

TWENTIETH CENTURY FOX FILM CORP.

Notice of Suspension of Trading

MAY 13, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Twentieth Century Fox Film Corp., being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (EDT) on May 13, 1977 through May 22, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14577 Filed 5-19-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-095]

ALABAMA STATE DOCKS TERMINAL RAILROAD BRIDGE, THREE MILE CREEK, MILE 0.7, MOBILE, ALA.

Public Hearing

Notice is hereby given that a public hearing regarding the Alabama State Docks Terminal Railroad bridge across Three Mile Creek, mile 0.7, at Mobile, Alabama, will be held on Thursday morning, June 30, 1977, at 11 a.m., in the Killian Room, International Trade Center, 250 North Water Street, Mobile, Alabama. This hearing is being held under the authority of Section 3 of the Act of June 21, 1940 (Truman-Hobbs Act).

The existing bridge, which has a swing span, provides approximately 53 feet of horizontal clearance in the draw when measured normal to the channel axis. A number of complaints have been received alleging that the bridge is unreasonably obstructive to navigation. The purpose of the hearing is to determine whether alteration is needed and if so, what alteration is required having due regard for the necessity of free, easy and unobstructed navigation upon the waterway. The needs of rail traffic will also be considered.

Public comments, views, and data are required for ascertaining whether the bridge unreasonably obstructs navigation, whether vessels have unreasonable difficulty and delay in passing through the bridge, the extent of costs associated with collisions and delays to navigation, the character and amount of commerce affected, whether the commerce affected is sufficient to justify alteration of the bridge, the changes necessary to render navigation through or under the bridge reasonably free and unobstructed, and the impact of the alteration, if made, upon the quality of the human environment.

Any person who wishes to appear and be heard at this public hearing may do so. Persons planning to appear and be heard are requested to notify the Commander, Eighth Coast Guard District, Hale Boggs Building, 500 Camp Street, Room 1140, New Orleans, Louisiana 70130, any time prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Limitations of time allocated, if required, will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of, or in addition to oral statements, and will be made a part of the record of the hearing. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Eighth Coast Guard District.

(54 Stat. 498, 33 U.S.C. 513; Section 4(f), 80 Stat. 934, as amended, 49 U.S.C. 1653(f); Section 6(g)(3), 80 Stat. 937, 49 U.S.C. 1655(g)(3); 33 CFR 116.20 and 49 CFR 1.46(c)(6).)

Dated: May 13, 1977.

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

[FR Doc.77-14550 Filed 5-20-77;8:45 am]

[1] The joint plan between the New York Stock Exchange, Inc., (the "NYSE") and the American Stock Exchange, Inc., was noted in Securities Exchange Act Release No. 13326 (March 3, 1977), 42 FR 13878 (March 14, 1977) (File No. 4-188). Notices of proposed plans between the NYSE and the Midwest Stock Exchange, Inc., ("MSE") (File No. 4-189), between the MSE and the Pacific Stock Exchange, Inc. ("PSE") (File No. 4-192), between the MSE and the Boston Stock Exchange Inc. ("BSE") (File No. 4-191), between the BSE and the PSE (File No. 4-193) and between the NYSE and the PSE (File No. 4-194) are published herein.

[CCGD5-77-01R]

PRESIDENT'S CUP REGATTA, WASHINGTON, D.C.

Special Local Regulations

Under the authority of the Act of April 28, 1908 (35 Stat. 69) as amended, and 33 CFR 100.35, as amended this notice promulgates special local regulations for the President's Cup Regatta. These special local regulations are established to insure the safety of life on the Potomac River at Washington, D.C., immediately before, during, and immediately after this regatta.

(a) *Location.* The area subject to these regulations is those waters enclosed by a line drawn from the southern tip of Haines Point northwards along the eastern seawall to a point 1,000 feet from the southern tip of Haines Point; thence easterly to a point 400 feet from the seawall; thence in a southerly direction to a point 1,400 feet distant, thence along a line of bearing 240° T. to the Virginia shore, upstream thence along the Virginia shoreline to the Penn Central Railroad bridge between Washington, D.C., and Arlington, Va.; thence 034° T. to the Potomac Park-Potomac River shoreline; thence along the Potomac Park-Potomac River shoreline to the southern tip of Haines Point.

(b) *Regulations.* (1) Except for participants in the President's Cup Regatta or persons or vessels authorized by the Coast Guard patrol officer, no person or vessel may enter or remain in the area specified in paragraph (a) of these regulations.

(2) The operator of any vessel in the immediate vicinity of the area specified in paragraph (a) above of these regulations shall:

(i) Stop his vessel immediately upon hearing five or more short blasts of a horn or whistle from any vessel displaying a Coast Guard emblem; and

(ii) Proceed as directed by any Coast Guard officer or petty officer.

(3) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(4) The Coast Guard patrol officer is a commissioned officer of the Coast Guard, who has been designated by the Commander, Fifth Coast Guard District.

(5) These regulations and other applicable laws and regulations are enforced by Coast Guard officers and petty officers on board Coast Guard, public, and private vessels displaying the Coast Guard emblem.

(Sec. 1, 35 Stat. 69 as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C., sec. 454, 49 U.S.C., sec. 1655(b)(1); 33 CFR 100.35, 49 CFR 1.46(b).)

Effective dates: These regulations are effective from 10:00 a.m. E.D.S.T. until 6 p.m. E.D.S.T. on June 9, 10, 11, and 12, 1977.

Dated: April 28, 1977.

R. H. WOOD,
U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc.77-14549 Filed 5-20-77;8:45 am]

Federal Aviation Administration

SOUTHERN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Meeting

AGENCY HOLDING MEETING: Federal Aviation Administration; Southern Region Air Traffic Control Advisory Committee.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FEDERAL REGISTER, Vol. 42, No. 89, Page 23572, Monday, May 9, 1977.

PREVIOUSLY ANNOUNCED MEETING TIME AND DATE: 9 a.m., June 7, 1977.

CHANGE MEETING DATE TO: 9 a.m., e.d.s.t, June 20, 1977.

Issued in East Point, Georgia, on May 11, 1977.

LONNIE D. PARRISH,
Chairman, Southern Region Air Traffic Control Advisory Committee.

[FR Doc.77-14355 Filed 5-20-77;8:45 am]

Federal Highway Administration

[FHWA Docket No. 77-8]

IN THE MATTER OF BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

Notice of Proposed Order

AGENCY: Federal Highway Administration, DOT.

ACTION: Proposed order.

SUMMARY: The proposed order would amend the Administrator's toll order of May 19, 1975, by establishing a time period during which that order will be in effect. This means that the order would terminate November 30, 1977.

DATES: All comments must be received on or before June 22, 1977. Failure to comment within the prescribed time period shall be a waiver of any right to object or to appeal the order when it is entered as a final order.

ADDRESS: Comments should be submitted to FHWA Docket Number 77-8, Room 4232, HCC-20, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Tierney, Office of the Chief Counsel (202-426-0346), Federal Highway Administration. Office hours are 7:45 a.m. to 4:15 p.m. EDT, Monday-Friday.

The following is the form of the proposed order which will become final upon the entry of an order by the United States Court of Appeals for the Third Circuit dismissing the appeal of the Delaware River Port Authority in case number 77-1047, "Delaware River Port Authority v. Tiemann."

PROPOSED ORDER

The Administrator's toll order of May 19, 1975, is amended to establish a time period during which the order shall be in effect. The order shall be in effect for 2 years to be measured from the date the order setting the tolls originally went into effect, December 1, 1975.

(33 U.S.C. 526, 49 CFR Part 310.)

Issued this 12th day of May 1977, in Washington, D.C.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-14218 Filed 5-20-77;8:45 am]

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS

Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted April 1977. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Renewals

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
970-X	DOT-E 970	Callery Chemical Co., Callery, Pa.; Department of Defense, Washington, D.C.	49 CFR 173.21(b), 173.300, 173.301.	To ship diborane in DOT specification 3AA2015 or 3AA2400 cylinders. (Modes 1 and 2.)
2582-P	DOT-E 2582	Matheson Gas Products, Lyndhurst, N.J.	49 CFR 173.304(a)(2).....	To become a party to exemption 2582. (See application No. 2582-X.) (Modes 1 and 2.)
3128-P	DOT-E 3128	Department of Defense, Washington, D.C.	49 CFR 173.304, 175.3.....	To become a party to exemption 3128. (See Application No. 3128-X.) (Modes 1, 2, 3, and 4.)
3187-X	DOT-E 3187	PPG Industries, Pittsburgh, Pa.....	49 CFR 173.21(b), 173.119 (m), 173.218, 173.221(a) (3).	To ship flammable liquid or organic peroxide in DOT specification 2U polyethylene bottles in a DOT specification 12P fiberboard box or in accordance with 49 CFR 173.221(a)(3). (Mode 1.)
3330-X	DOT-E 3330	Babcock and Wilcox Co., Lynchburg, Va.; Teledyne Wah Chang Corp., Albany, Oreg.	49 CFR 173.214(d).....	To ship zirconium alloy metal powder in a 32-oz or 16-oz non-DOT container overpacked in a DOT specification 17C, 17H, or 37A metal drum. (Modes 1 and 2.)
3648-X	DOT-E 3648	Airco Industrial Gases, Murray Hill, N.J.	49 CFR 172.101, 173.315(a)..	To ship liquid helium, liquefied hydrogen in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
3667-X	DOT-E 3667	Groendyke Transport, Inc., Enid, Okla; Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.315(a).....	To ship compressed gas, n.o.s. in non-Dot aluminum cargo tanks complying with DOT specification MC-330. (Mode 1.)
3768-P	DOT-E 3768	PPG Industries, Inc., Pittsburgh, Pa.	49 CFR 173.119, 173.245, 173.288.	To become a party to exemption 3768. (See application No. 3768-X.) (Mode 1.)
3897-P	DOT-E 3897	.....do.....	49 CFR 173.139(a)(6); 46 CFR 146.21-100	To become a party to exemption 3897. (See application No. 76-22.) (Modes 1 and 3.)
4248-P	DOT-E 4248	Sargent-Welch Scientific Co., Skokie, Ill.; J. T. Baker Chemical Co., Phillipsburg, N.J.	49 CFR 173.245(a)(27), 173.-263(d).	To become a party to exemption 4248. (See application No. 4248-X.) (Modes 1, 2, and 3.)
4291-X	DOT-E 4291	Pacific Engineering and Production Co. of Nevada, Henderson, Nev., United Technologies, Sunnyvale, Calif.; Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.239a(a)(2).....	To ship ammonium perchlorate in a non-DOT aluminum portable tank. (Modes 1 and 2.)
4393-X	DOT-E 4393	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314.....	To ship hydrogen chloride in DOT specification 105A500W and 105A600W tank car tanks. (Mode 2.)
4790-X	DOT-E 4790	Smith Wesson/General Ordnance Equipment Co., Rock Creek, Ohio.	49 CFR 173.385(d), 173.385 (a)(1).	To ship tear gas devices in DOT specification 2P containers overpacked in DOT specification 12B fiberboard boxes. (Modes 1 and 2.)
4932-X	DOT-E 4932	Federal Laboratories, Saltsburg, Pa...	49 CFR 172.101, 173.385(a), 175.3.	To ship tear gas devices in a non-DOT telescopic type, cylindrical, wound-kraft container, overpacked in a DOT specification 12B fiberboard box. (Modes 1, 2, and 4.)
5022-P	DOT-E 5022	United Technologies Corp., Sunnyvale, Calif.; National Aeronautics and Space Administration, Washington, D.C.	.....	To become a party to exemption 5022. (See application No. 75-141 and 5022-X.) (Modes 1 and 2.)
5186-X	DOT-E 5186	Liquid Carbonic Corp., Chicago, Ill..	49 CFR 172.101, 173.315(a)..	To ship liquefied carbon monoxide in a non-DOT specification perlite-vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
5196-P	DOT-E 5196	Ethyl Corp., Baton Rouge, La.....	49 CFR 172.101, 173.315(a) (1).	To become a party to exemption 5196. (See application No. 5196-X.) (Mode 1.)
5248-X	DOT-E 5248	The 3M Co., St. Paul, Minn.; The Boeing Co., Seattle, Wash.; Monsanto Co., St. Louis, Mo.	49 CFR 173.389(g), 175.3....	To ship radioactive materials, n.o.s. in any approved outer type A packaging prescribed in secs. 173.389(j) and 173.394(a). (Modes 1, 2, and 4.)
5372-P	DOE-E 5372	Air Products and Chemicals, Inc., Allentown, Pa.; Airco Industrial Gases, Murray Hill, N.J.	49 CFR 173.301(d)(1), 173.-302(a)(3), 173.304(a)(2).	To become a party to exemption 5372. (See application No. 5372-X.) (Modes 1 and 3.)
5456-P	DOT-E 5456	Allied Chemical Corp., Morristown, N.J.	49 CFR pt. 173.....	To become a party to exemption 5456. (See application No. 5456-X.) (Modes 1, 2, and 3.)
5704-X	DOT-E 5704	IMC Chemical Group, Inc., Allentown, Pa.; U.S. Department of Defense, Washington, D.C.	49 CFR 173.93(e), 173.63....	To ship certain class A and B explosives in non-DOT 22 gage steel drums. (Modes 1, 2, and 3.)
5849-P	DOT-E 5849	Lehigh Valley Chemical Co., Easton, Pa.; Olin Chemical Group, Stamford, Conn.	49 CFR 173.217(a)(5), 175.3..	To become a party to exemption 5849. (See application No. 5849-X.) (Modes 1, 2, 3, and 4.)
5852-P	DOT-E 5852	Brooklyn Union Gas, Brooklyn, N.Y..	49 CFR 172.101, 173.315(a)....	To become a party to exemption 5852. (See application No. 5852-X.) (Mode 1.)
5944-X	DOT-E 5944	Dow Chemical Co., Midland, Mich....	49 CFR 172.101, 173.315(a) (1).	To ship liquefied ethylene in a non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of ASME code. (Mode 1.)
6045-X	DOT-E 6405	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.121.....	To ship carbon disulfide in DOT specification MC-312 cargo tanks. (Modes 1 and 3.)
6083-X	DOT-E 6083	Stauffer Chemical Co., Westport, Conn.	49 CFR 172.101, 173.273, 175.3.	To ship certain corrosive materials in any DOT specification cylinders with certain exceptions. (Modes 1, 2, and 4.)
6121-X	DOT-E 6121	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 179.220-19(c).....	To ship certain flammable liquids in DOT specification 115A60W1 and 115A60W6 tank car tanks. (Mode 2.)
6145-P	DOT-E 6145	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.154(a).....	To become a party to exemption 6145. (See application No. 75-55.) (Mode 1.)
6154-X	DOT-E 6154	Uniroyal Chemical, Naugatuck, Conn.	49 CFR 173.154(a)(12), 178.205-16.	To ship certain flammable solids in a non-DOT corrugated fiberboard box complying with DOT specification 12B with certain exceptions. (Modes 1, 2, and 3.)
6225-P	DOT-E 6225	Michigan Chemical Corp., Chicago, Ill.	49 CFR 173.252(g).....	To become a party to exemption 6225. (See application No. 6225-X.) (Modes 1 and 3.)
6253-P	DOT-E 6253	Interpool Ltd., New York, N.Y.; Johnson Scan Star, San Francisco, Calif.; Akzo Zout Chemie Nederland, Amsterdam, Holland.	49 CFR 173.119, 173.125, 173.245.	To become a party to exemption 6253. (See application No. 75-202.) (Modes 1, 2, and 3.)
6392-X	DOT-E 6392	Stauffer Chemical Co., Westport, Conn.; Northern Petrochemical Co., Des Plaines, Ill.; El Paso Products Co., Odessa, Tex.	49 CFR 172.101, 173.314(c)...	To ship liquefied ethylene in a non-DOT specification, vacuum insulated tank car tank designed and constructed to comply with AAR proposed specification 113C120W. (Mode 2.)
6418-X	DOT-E 6418	Dow Chemical Co., Midland, Mich.; Great Lakes Chemical Corp., Irvine, Calif.	49 CFR 173.357(b).....	To ship chloropicrin mixture in DOT specification MC-304 or MC-307 cargo tanks constructed of steel. (Mode 1.)
6496-X	DOT-E 6496	Inland Steel Container Co., Chicago, Ill.	49 CFR 173.119(b)(10), 173.359 (a), (b).	To ship class B poisonous liquids and flammable liquids in a DOT specification 37D steel drum. (Mode 1.)
6530-P	DOT-E 6530	Mass Oxygen Equipment Co., Westboro, Mass.	49 CFR 173.302(c).....	To become a party to exemption 6530. (See application No. 6530-X.) (Modes 1 and 2.)
6536-P	DOT-E 6536	Allied Chemical Corp., Morristown, N.J.	49 CFR 172.101, 173.315(a)...	To become a party exemption 6536. (See application No. 6536-X.) (Mode 1.)
6554-P	DOT-E 6554	Utility Chemical Co., Paterson, N.J. Coastal Industries, Inc., Carlstadt, N.J.; Tesco Chemicals, Inc., Marietta, Ga.	49 CFR 173.154, 173.217.....	To become a party to exemption 6554. (See application No. 6554.) (Modes 1, 2, and 3.)
6556-X	DOT-E 6556	Castle and Cooke Inc., San Francisco, Calif.	49 CFR 173.132.....	To ship a flammable liquid in a non-DOT specification single compartment portable tank. (Modes 1 and 3.)
6607-X	DOT-E 6607	Bio-Lab, Inc., Decatur, Ga.....	49 CFR 173.218(a).....	To ship a certain oxidizing material in a non-DOT fiberboard box. (Mode 1.)
6610-X	DOT-E 6610	Oxirane Chemical Co., Pasadena, Calif.	49 CFR 173.221.....	To ship an organic peroxide in DOT specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1 and 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6695-X	DOT-E 6695	Ugine Kuhlmann of America, New York, N.Y.	49 CFR 173.315	To ship certain nonflammable compressed gases in non-DOT specification portable tanks. (Modes 1 and 3.)
6704-X	DOT-E 6704	Dow Chemical Co., Midland, Mich	49 CFR 173.245a, 173.249, 173.253, 173.294, 173.340, 178.343.	To ship certain corrosive liquids in a non-DOT cargo tank complying with specification MC-312 with certain exceptions. (Mode 1.)
6754-X	DOT-E 6754	Eaton Corp., Southfield, Mich	49 CFR 173.302(a)(4), 178.65, 175.3.	To ship a nonflammable compressed gas in a non-DOT nonrefillable welded steel pressure vessel. (Modes 1, 2, 3, and 4.)
6800-X	DOT-E 6800	Plasti-Drum Corp., Lockport, Ill	49 CFR pt. 173; 178.19	To ship certain oxidizers, corrosive liquids, class B poison, flammable liquids in non-DOT specification reusable molded polyethylene containers. (Modes 1, 2, and 3.)
6806-X	DOT-E 6806	Dow Chemical Co., Midland, Mich	49 CFR 173.302(a), 175.3	To ship hydrogen in a DOT specification 3E-1800 cylinder. (Mode 5.)
6811-X	DOT-E 6811	Eaton Corp., Southfield, Mich	49 CFR 173.302(a)(4), 178.65, 175.3.	To ship nonflammable compressed gases in a non-DOT nonrefillable welded steel cylinder in compliance with DOT specification 39, with certain exceptions. (Modes 1, 2, 3, and 4.)
6814-X	DOT-E 6814	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.272(d), (i)(27)	To ship sulfuric acid in a DOT specification MC-310, MC-311 or MC-312 tank motor vehicle. (Mode 1.)
6825-X	DOT-E 6825	Lox Equipment Co., Livermore, Calif.	49 CFR 172.101, 173.314(c)	To ship liquefied ethylene in a non-DOT specification vacuum-insulated tank car, tank designed and constructed to comply with AAR proposed specification 113C120W. (Mode 2.)
6847-X	DOT-E 6847	United Foam Corp., Compton, Calif.	49 CFR 173.346(a)	To ship certain class B poisons in a non-DOT specification steel portable tank. (Modes 1 and 3.)
6880-X	DOT-E 6880	Anchem Products, Inc., Amber, Pa	49 CFR 173.249(a)	To ship certain corrosive liquids in DOT specification 57 steel portable tanks. (Modes 1 and 2.)
6902-X	DOT-E 6902	Halocarbon Products Corp., Hackensack, N.J.; Michigan Chemical Corp., Chicago, Ill.	49 CFR 173.314(c), 179.300-15.	To ship anhydrous hydrogen bromide in DOT specification 110A800W multiunit tank car tanks. (Modes 1 and 2.)
6932-X	DOT-E 6932	Ugine Kuhlmann, Paris, France	49 CFR 173.264(b)(4)	To ship anhydrous hydrofluoric acid in a non-DOT specification portable tank. (Modes 1 and 3.)
6944-X	DOT-E 6944	U.S. Department of Defense, Washington, D.C.	49 CFR 173.62(a), 177.834 (L)(1).	To ship certain class A explosives in a specially designed non-DOT stainless steel desiccator. (Mode 1.)
6949-X	DOT-E 6949	Monsanto Co., St. Louis, Mo.; FMC Corp., Philadelphia, Pa.	49 CFR 173.190(b)(4)	To ship certain flammable solids in a non-DOT marine portable tank. (Modes 1, 2, and 3.)
6950-X	DOT-E 6950	Ozark-Mahoning Co., Tulsa, Okla	49 CFR 173.275	To ship hexafluorophosphoric acid in DOT specification 6D cylindrical steel overpack inside DOT specification 2S or 2SL polyethylene container. (Modes 1 and 3.)
6992-X	DOT-E 6992	Grumman Aerospace Corp., Bethpage, N.Y.	49 CFR 173.302(a)(1), 173.304(a), 173.305(a).	To ship certain nonflammable and flammable compressed gases in a reservoir-condenser unit forming an integral part of a radiator panel. (Modes 1 and 4.)
7031-X	DOT-E 7031	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Austin Powder Co., Cleveland, Ohio.	49 CFR 173.63, 173.64(a)(2), 173.65.	To ship certain class A and B explosives in a non-DOT specification fiberboard box. (Modes 1, 2, and 3.)
7038-X	DOT-E 7038	Farm Chemicals, Inc., Aberdeen, N.C.	49 CFR 173.358, 173.359	To ship class B poisonous liquids in a non-DOT specification cargo tank. (Mode 1.)
7046-X	DOT-E 7046	J. T. Baker Chemical Co., Phillipsburg, N.J.	49 CFR 178.340-5(c)	To ship certain corrosive liquid in non-DOT glass lined cargo tanks. (Modes 1 and 3.)
7051-X	DOT-E 7051	Ozark-Mahoning Co., Tulsa, Okla	49 CFR 173.246(a), 175.3	To ship antimony pentafluoride in DOT specification 12A and 12B fiberboard boxes. (Modes 1 and 4.)
7066-X	DOT-E 7066	Proctor & Gamble Manufacturing Co., Cincinnati, Ohio; Campagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119(m)	To ship flammable liquid, n.o.s. in a non-DOT portable tank. (Modes 1 and 3.)
7073-X	DOT-E 7073	Ethyl Corp., Baton Rouge, La	49 CFR 173.354(a)(6)	To ship antiknock compound in a non-DOT specification 105 type 10 portable tank. (Modes 1 and 3.)
7081-X	DOT-E 7081	Electrochemica Corp., Mountain View, Calif.	49 CFR 173.206(e)(1), 175.3	To ship lithoum batteries in exemption 7052 packagings. (Modes 1, 2, 3, and 4.)
7211-X	DOT-E 7211	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.251(b)(1)	To ship boron tribromide in DOT specification 37A 8 gal and DOT 37A 30 gal steel drums. (Modes 1, 2, 3, and 4.)
7231-X	DOT-E 7231	American Cyanamid Co., Wayne, N.J.	49 CFR 173.245(a)	To ship certain corrosive liquids in a non-DOT collapsible rubber container named "Sealdtank." (Mode 1.)
7239-X	DOT-E 7239	Atlas Powder Co., Dallas, Tex	49 CFR 173.182(c)	To ship nitro cargo nitrate in a non-DOT collapsible rubber container called "Sealdtank". (Mode 1.)
7259-X	DOT-E 7259	Stauffer Chemical Co., Westport, Conn.	49 CFR 176.76(g)(5)	To ship phosphorus pentasulfide in DOT specification 50 aluminum portable tanks. (Mode 3.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Azusa, Calif.	49 CFR 173.302(a)(1), 175.3	To ship compressed air in a non-DOT specification filament-wound reinforced plastic aluminum lined cylinder. (Modes 1, 2, 3, 4, and 5.)
7470-P	DOT-E-7470	Hooker Chemicals and plastics Corp., Niagara Falls, N.Y.; U.S. Industrial Chemicals Co., New York, N.Y.	49 CFR 173.241(a)(3), 173.272(i)(22), (27), 173.247(a)(13), 173.271(a)(9), 173.263(a)(9), 179.200-18(b)(1), 179.201-1(a), 179.201-7.	To become a party to exemption 7470. (See application No. 7170-N.) (Mode 2.)
7476-N	DOT-E 7476	Thompson Tank and Manufacturing Co., Long Beach, Calif.	49 CFR 173.119(a)(17), 173.245(a) (30), (31), 178.340-7, 178.342-5.	To ship flammable liquids and corrosive liquids in a non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
7542-N	DOT-E 7542	U.S. Cylinders, Inc., Citronelle, Ala	49 CFR 173.303(a)	To ship acetylene in non-DOT specification steel cylinders complying with DOT specification 4BW with certain exceptions. (Modes 1 and 2.)
7546-N	DOT-E 7546	Grumman Aerospace Corp., Bethpage, N.Y.	49 CFR 173.302(a)(1), 173.304(a), 173.305(a).	To ship certain nonflammable and flammable compressed gases in non-DOT heat pipe radiator assemblies built to comply with the ASME code. (Modes 1, 2, and 3.)
7584-N	DOT-E 7584	Orval-Manutention, Paris, France; L'Air Liquide, Paris, France; Laporte Industruals Ltd., Paris, France; Degussa, Frankfurt/Main Germany.	49 CFR 173.266	To ship hydrogen peroxide solution in a non-DOT specification stainless steel portable tank. (Modes 1, 2, and 3.)
7605-N	DOT-E 7605	General Dynamics, Fort Worth, Tex	49 CFR 173.87, 173.92, 173.101, 173.102, 173,113, 175.3, 176.83, 177.848.	To ship partially disassembled aircraft containing various explosives under specified conditions. (Modes 1, 2, 3, and 4.)
7626-N	DOT-E 7626	Commercial Metals Co., Dallas, Tex.; Johnson Scan Star (North America), San Francisco, Calif.	49 CFR 173.1025	To ship certain, ORM-C in non-DOT plastic lined freight containers. (Mode 3.)
7633-N	DOT-E 7633	Seat Containers, Inc., Hamilton, Bermuda.	49 CFR 173.119(b), 173.125	To ship certain hazardous materials in a non-DOT specification stainless steel portable tank. (Modes 1, 2, and 3.)
7709-N	DOT-E 7709	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.21, 173.304, 173.395.	To ship flammable compressed gases in a solid cryogen cooler overpacked in a non-DOT stainless steel tank or installed in a spacecraft. (Mode 1.)
7719-N	DOT-E 7719	Turner Co., Sycamore, Ill	49 CFR 173.304, 178.65	To ship certain flammable compressed gases in DOT specification 39 nonrefillable steel cylinders. (Modes 1 and 2.)

EMERGENCY EXEMPTION—APPLICATIONS RECEIVED AND GRANTED

EE7722-N	DOT-E 7722	Skagway Air Service, Skagway, Alaska.	49 CFR 172.101(6)(b), 175.3	To ship chlorine gas in DOT specification 3A cylinders. (Mode 4.)
EE7723-N	DOT-E 7723	Farm and Industrial Chemical Co., Dalton, Ga.	49 CFR 173.245(a)(31)	To ship acetic acid in a DOT specification MC-306 tank motor vehicle. (Mode 1.)
EE7724-N	DOT-E 7724	Weather Modification, Inc., Bowman, N. Dak.; Plains Weather Improvement Association, Plainview, Tex.; North American Weather Consultants, Goleta, Calif.; Atomspherics Inc., Fresno, Calif.	49 CFR Chapter 1, Subch. C.	To transport certain hazardous materials which are loaded and carried in hoppers, tanks, racks, or devices of aircraft certificated for use in aerial cloud seeding, avalanche control, or fire fighting to be dispensed during such operation. (Mode 4.)

DENIALS

76-383 Request by Intsel Corp., New York, N.Y.—To ship phosphorus oxychloride in drums identified as 117L, denied April 13, 1977. (Docket HM-139 obviates the need).

3460-X Request by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.—To transport inhibited vinyl fluoride via common carrier in DOT MC-330 and MC-331 cargo tanks, denied April 11, 1977. (Docket HM-139 obviates the need).

5680-P Request by Mobil Chemical Co., Richmond, Va.—To become a party to E 5680 authorizing shipment of organic phosphate materials in DOT Specification 105A300W tank cars, denied April 28, 1977. (Docket HM-139 obviates the need).

6249-X Request by Monsanto Co., St. Louis, Mo.—To ship trichloropropene in DOT Specification 51 portable tanks, denied April 8, 1977. (Docket HM-139 obviates the need).

6260-P Request by Baker Manufacturing Co., Evansville, Wis.—To become a party to E 6260 authorizing shipment of compressed air or nitrogen in non-DOT specification, single-trip welded steel tanks, denied April 21, 1977 as being unnecessary.

6434-P Request by Riverside Chemical Co., Memphis, Tenn.—To become a party to E 6434 authorizing shipment of "Mocap Plus" in 30-pound multiwall paper bags, denied April 19, 1977 as being unnecessary.

6453-X Request by General Motors Corp., Warren, Mich.—To ship Air Cushion Restraint System, denied April 21, 1977 as being unnecessary.

6471-X Request by Magnolia Welding Supply Co., Inc., Pascagoula, Miss.—To extend the retest period for certain DOT Specification 3A and 3AA cylinders to ten years, denied April 11, 1977 as being unnecessary.

6496-P Request by Stevens Industries, Inc., Dawson, Ga.—To become a party to E 6496 authorizing shipment of certain hazardous materials in DOT Specification 37D steel drums (non-reusable container) having a 21-gauge body and 20-gauge heads, denied April 14, 1977 as being unnecessary.

6637-P Request by Troy Chemical Corp., Newark, N.J.—To become a party to E 6637 authorizing shipment of a certain hazardous material in a non-DOT Specification polyethylene (PE) drum of 55-gallon capacity, denied April 21, 1977 as being unnecessary.

6687-X Request by American Cyanamid Co., Teterboro, N.J.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Mellon Bank Hanger, West Mifflin, Pa.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Asplundh Aviation, Inc., Willow Grove, Pa.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Northern Air, Grand Rapids, Mich.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Western Jet Corp., Dallas, Tex.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Aerojet-General Corp., Ontario, Calif.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Airkaman Inc., Windsor Locks, Conn.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Midwest Air Charter Inc., Elyria, Ohio—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Texas Instruments, Dallas, Tex.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Bud Antle, Inc., Salinas, Calif.—To become a party to E 6687-X authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Beaver County Airport, Beaver Falls, Pa.—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by McGraw Edison Co., West Chicago, Ill.—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Safelite Industries, Wichita, Kan.—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Reserve Oil and Gas Co., Denver, Colo.—To become a party to E 6687 authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Federated Department Stores, Inc. Cincinnati, Ohio—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6725-X Request by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.—To ship insecticide liquid, classified as a flammable liquid, in a DOT Specification 12P fiberboard box having an inside Specification 2U polyethylene container of five-gallon capacity and minimum thickness of 15 mils, denied April 8, 1977 as being unnecessary.

6775-X Request by Riverside Chemical Co., Memphis, Tenn.—To ship organic phosphate mixtures in MC-330 cargo tanks, denied April 28, 1977. (Docket HM-139 obviates the need.

6800-P Request by FMC Corp., Philadelphia, Pa.—To ship hydrogen peroxide in a non-DOT Specification polyethylene drum of 55-gallon capacity, denied April 5, 1977 as being unnecessary.

6912-X Request by Dow Chemical Co., Plaquemine, La.—To ship hydrogen in a non-DOT Specification sphere aboard passenger-carrying aircraft, denied April 14, 1977.

7026-P Request by Douglas Aircraft Co., Long Beach, Calif.—To become a party to E 7026, authorizing shipment of bromotrifluoromethane pressurized with nitrogen in non-DOT specification spherical steel pressure vessels, denied April 14, 1977 as being unnecessary.

7212-X Request by Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y.—To transport phosphoric anhydride imported in a steel drum of foreign manufactur that meets or exceeds DOT Specification 37A, denied April 8, 1977 as being unnecessary.

7214-X Request by Mobay Chemical Corp., Pittsburgh, Pa.—To ship additional commodities in non-DOT Specification 55-gallon steel drums, denied April 14, 1977. (Docket HM-103/112 obviates the need).

7481-N Petition for reconsideration by Billings Energy Corp., Provo, Utah—To allow relaxation of the retest requirements prescribed in DOT-E 6498, denied April 4, 1977.

7491-P Request by Northern Petrochemical Co., Des Plaines, Ill.—To become a party to E 7491 authorizing shipment of certain hazardous materials in an Association of American Railroads proposed Specification 113C120W tank car, denied April 19, 1977 as being unnecessary.

7512-X Request by Puerto Rico Marine Management, Inc., Elizabeth, N.J.—To allow shipment of aqua ammonia under the provisions of DOT-E 5854, denied April 14, 1977.

7579-N Request by Staple Cotton Services Assoc., Greenwood, Miss.—To ship certain organic phosphate mixtures in DOT Specification MC-331 cargo tanks, denied April 28, 1977. (Docket HM-139 obviates the need).

7583-N Request by Diagnostic Isotopes Inc., Upper Saddle River, N.J.—For an exemption from the requirements in Section 173.390(b) of Title 49, Code of Federal Regulations for shipment of certain radioactive materials, denied April 8, 1977.

7643-N Request by Department of Health, Education, and Welfare, Baltimore, Md.—To ship aerosol containers aboard passenger carrying aircraft, denied April 19, 1977.

EE7725-N Request by Economics Laboratory Inc., St. Paul, Minn.—To allow the shipping description on shipping papers to contain coded information, denied April 29, 1977.

WITHDRAWALS

76-12 Request by Dow Chemical International, Midland, Mich.—To allow shipments of sodium persulfate, packed in non-DOT specification sealed, polyethylene bags and containerized for "House to House" shipments, withdrawn April 12, 1977.

EE7689 Request by Martin Marietta Corp., Denver, Colo—Requesting relief from the provisions of 49 CFR 173.68, withdrawn April 12, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-14391 Filed 5-20-77;8:45 am]

National Highway Traffic Safety Administration

MOTOR VEHICLE SAFETY SYSTEMS, MEANING OF "KNOWINGLY RENDER INOPERATIVE"

Replacement of Brake Components on Regulated Air-Braked Vehicles

Interested persons have asked whether section 108(a)(2)(A) of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. 1397(a)(2)(A)) permits commercial facilities to replace brake components used in satisfaction of

the early performance levels of Standard No. 121, Air Brake Systems, with brake components that are used in satisfaction of the existing reduced performance levels of the standard. Section 108(a)(2)(A) states in relevant part:

(2)(A) No manufacturer, distributor, dealer, or motor vehicle repair business shall knowlingly render inoperative, in whole or in part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable Federal motor vehicle safety standard (except during repair).

This question arises because the level of service brake stopping performance required by Standard No. 121 was reduced on March 1, 1976 (40 FR 8783). In some cases, manufacturers reduced the brake performance of their new vehicles by substituting smaller or otherwise less powerful components (such as brake chambers, slack adjusters, and linings) for comparable larger components that were used prior to March 1, 1976. Owners of the older vehicles are now asking whether section 108(a)(2)(A) prohibits commercial facilities from substituting the newer, less powerful components for those that originally equipped the older vehicles. Recently the Truck and Bus Safety Subcommittees of two Department of Transportation advisory committees requested wide public dissemination of the agency's position on this question.

It is the opinion of the NHTSA that a manufacturer, distributor, dealer, or repair business does not "knowingly render inoperative" a device or element of design by replacing components installed in satisfaction of a safety standard with other components that are used in newer vehicles of the same type in satisfaction of the same standard, even if the standard for the newer vehicles imposes a less stringent level of performance. The current performance level of any safety standard represents the agency's view of the appropriate level of protection that should be provided, subject to future planned changes of those levels. Thus, a commercial facility or private party would not, in the agency's view, violate section 108(a)(2)(A) by substituting components that provide the existing performance level mandated by a standard, whether or not they provide the formerly required level of performance.

This opinion of the meaning of section 108(a)(2)(A) addresses only the factual situation described. Other questions about the meaning of this provision of the Act should be directed to: Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590.

Issued on May 10, 1977.

JOAN CLAYBROOK,
Administrator.

[FR Doc.77-14432 Filed 5-20-77;8:45 am]

DEPARTMENT OF THE TREASURY

[Public Debt Series—No. 13-77]

TREASURY NOTES OF JUNE 30, 1981

Series J-1981

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,000,000,000 of United States securities, designated Treasury Notes of June 30, 1981, Series J-1981 (CUSIP No. 912827 GT 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated June 3, 1977, and will bear interest from that date, payable on a semiannual basis on December 31, 1977, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities 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, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities 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 securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 24, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 23, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a comercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders 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 the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. 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 equivalent 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. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Friday, June 3, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submited, which must be received at such institution no later than:

(a) Tuesday, May 31, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, May 27, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities 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. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned, if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscription or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-14640 Filed 5-19-77;11:41 am]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 395]

ASSIGNMENT OF HEARINGS

MAY 18, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141804 (Sub-No. 43), Western Express, Division of Interstate Rental, Inc., now assigned July 19, 1977, at San Francisco, Calif., is postponed indefinitely.

MC-PC-75721, General Movers, Inc., Fargo Motor Express, Inc., Modern Truck Lines, Inc., MC 120897 (Sub-No. 3), General Movers, Inc. and MC 120897 (Sub-No. 2), General Movers, Inc., now assigned June 6, 1977, at Chicago, Ill. is postponed indefinitely.

MC 115793 (Sub-No. 22), Caldwell Freight Lines, Inc., now assigned July 14, 1977, at Kansas City, Mo. is canceled and application dismissed.

MC 113658 Sub-No. 11, 13 & 15, Scott Truck Line, Inc., MC 53965 Sub No. 122, Graves Truck Lines, Inc., MC 25869 Sub No. 129, Nolte Bros. Truck Line, Inc., MC 114273 Sub No. 269, CRST, Inc., MC 138018 Subs 31 and 34, Refrigerated Foods, Inc., MC 124679 Sub 71, C. R. England & Sons, Inc., MC 115826 Sub 264, W. J. Digby, Inc., MC 127042 Subs 186 and 197, Hagen, Inc., MC 139973 Subs 22 and 18, J. H. Ware Trucking, Inc., MC 48221 Subs 6 and 8, W. N. Morehouse Truck Line, Inc.,

MC 107515, Refrigerated Transport Co., Inc., MC 25869, Nolte Bros. Truck Line, Inc., MC 118159 Sub 201, National Refrigerated Transit, Inc., MC 113362 Sub 308, Ellsworth Freight Lines, MC 114632 Subs 104 and 110, Apple Lines, Inc., MC 115841 Sub 529, Colonial Refrigerated Transport, Inc., MC 140829 Sub 45, Cargo Contract Carriers Inc.,

MC 124211 Sub 288, Hilt Truck Line, Inc., MC 142964 Sub 2, Ronar Trucking, Inc., MC 142574 Sub 2, Circle C Transportation Co.,

MC 135874 Sub 85, LTL Perishables, Inc., MC 134477 Subs 152 and 161, Schanno Transportation, Inc., MC 138227, Ogallala Transfer, Inc.,

MC 127602 Sub 15, Denver-Midwest Motor Freight, Inc., MC 2860 Sub 155, National Freight, Inc., MC 140033 Sub 24, Cox Refrigerated Express, Inc., MC 143199, COP's, Inc., MC 135684 Sub 34, Bass Transportation Co., Inc., MC 138274 Sub 44, Shippers Best Express, Inc., MC 138274, Shippers

Best Express, Inc., MC 140389 Sub 16, Osborn Transportation, Inc. and MC 133566 Sub 78, Gangloss & Downham Transportation Co., Inc. being assigned June 21, 1977 (9 days) at Denver, Colorado and will be held in the Court of Appeals, Division Two, US Courthouse, 1961 Stout Street and on July 19, 1977 (9 days) at Denver, Colorado and will be held in the Tax Court, Room 587, US Federal Building & Courthouse, 1961 Stout Street.

MC 120477 Sub 2, International Transport, Inc. Common Carrier Application now assigned June 13, 1977 at New York, New York is postponed until July 11, 1977 (1 week) at New York, New York in a hearing room to be later designated.

MC 340 Sub 41, Querner Truck Lines, Inc. previously assigned June 12, 1977 at Dallas, Texas, application hereby dismissed.

MC 120325 (Sub-4), Frames, Morrison & Ryan, Inc., now assigned June 6, 1977 at Philadelphia, Pennsylvania, is canceled and the application is dismissed.

MC 139381 (Sub-No. 4), Spirit of '76 Overland Express, Inc., now being assigned for June 22, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S M-29478, Class Rate Restructuring, C&SMFA, May 1977, now being assigned June 28, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115826 Sub 263, W. J. Digby, Inc. now assigned June 7, 1977 at Seattle, Washington is postponed to August 1, 1977 (1 week) at Denver, Colorado and will be held at the Tax Court, Room 587, U.S. Federal Building & Courthouse, 1961 Stout Street and August 8, 1977 (1 week) at Seattle, Washington and will be held in Room 3086, Federal Building, 915 Second Avenue.

MC 135797 (Sub-No. 61), J. B. Hunt Transport, Inc., now being assigned for continued Hearing on the 6th day of July 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14587 Filed 5-20-77;8:45 am]

[Notice No. 168]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77103, filed April 29, 1977. Transferee: PREMIER HOMES, INC., 2400 North Seventh Ave., Bozeman, Mont. 59715. Transferor: Junior W. Tschache, doing business as O-Bar-J Trailers, 2000 N. 7th, P.O. Box 716, Bozeman, Mont. 59715. Applicant's representative: James J. Screnar, Attorney at Law, 215 West Mendenhall, P.O. Box 1122, Bozeman, Mont. 59715. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 124790, issued April 7, 1970, as follows: *Mobile homes* and *house trailers,* over regular routes, between Bozeman, Mont., and West Yellowstone, Mont., serving no intermediate points; from Bozeman over U.S. Highway 191, to West Yellowstone, and return over the same route. *Mobile homes* and *house trailers,* over irregular routes, between points in Gallatin and Park Counties, Mont., on the one hand, and, on the other, points in Yellowstone National Park, located in Idaho, Montana, and Wyoming. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77119, filed May 10, 1977. Transferee: PAQUETTE AUTOBUS, INC., 295 Grande Cote, St. Eustache, Quebec, Canada. Transferor: George D. Paquette Bus Lines, Ltd., a corporation, 222 William St., Rosemere, Quebec J7A 2R4, Canada. Applicants' representative: W. Norman Charles, attorney at law, 80 Bay St. Glen Falls, N.Y. 12801. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 134715 and MC 134715 (Sub-No. 2), issued June 21, 1971, and December 17, 1975, respectively as follows: *Passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at ports of entry on the United States-Canada Boundary line located at or near Rouses Point, N.Y., and Derby Line and Norton, Vt., and extending to points in New York and Vermont; and beginning and ending at ports of entry on the United States-Canada boundary line located in Maine, Michigan, New Hampshire, New York, and Vermont, and extending to points in the United States (except points in Alaska, Hawaii, New York, and Vermont). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77120, filed May 10, 1977. Transferee: DAIRY LEASING SERVICE, INC., 803 Herring Ave., Wilson, N.C. 27893. Transferor: Lonnie P. Stancil, Roy A. Stancil, and Walter T. Stancil, a partnership, doing business as Dairy Leasing Service, 803 Herring Ave., Wilson, N.C. 27893. Applicants' representative: Thomas N. Willess, attorney at law, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 140653, issued December 27, 1976, as follows: *Dairy products and ice cream,* from Winston-Salem and Wilson, N.C., to Miami, Fla.; cottage cheese, from Chambersburg, Pa., to Miami, Fla., and Winston-Salem, N.C.; and orange juice, from Lakeland and Bradenton, Fla., to Wilson, Winston-Salem, and Raleigh, N.C., limited to a transportation service to be performed under a continuing contract, or contracts with Sealtest Foods Division, Kraftco Corporation. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14586 Filed 5-20-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: U.S. Commission on Civil Rights.

DATE AND TIME: May 26, 1977, 11 am.

PLACE: The Washington Room, Los Angeles Hilton Hotel, 931 Wilshire Boulevard, Los Angeles, California.

STATUS: A portion of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED IN OPEN SESSION:

Discussions of agency comments on Criminal Code Reform Act of 1977–S1437.

Consideration of recommendations in report of Indiana State Advisory Committee on Equal Opportunity in Public School System of Fort Wayne, Indiana.

Discussion of Commission's jurisdiction in the area of the administration of justice.

MATTERS TO BE CONSIDERED IN CLOSED SESSION:

Continuation of discussion of the National Media Study Report.

CONTACT PERSON FOR MORE INFORMATION:

Mimi Hartley; in Washington, D.C. office (202–254–6697). In Los Angeles, May 25–26 (213–688–3437).

[S-471-77 Filed 5-19-77;1:21 pm]

2

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m. May 24, 1977.

PLACE: 2033 K Street, Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

1. Proposed Regulations Governing Commission Review of Exchange Action Under Section 8c of the Commodity Exchange Act.

2. International Trading Group, Ltd. Request for Exemption from Segregation Requirement of the Option Rules.

Portions closed to the public:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, The Secretariat (254–6314).

[S-457-77 Filed 5-18-77;2:07 pm]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 23935, May 11, 1977, as amended by notice published in issue of May 19, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2 p.m., May 19, 1977.

CHANGES IN THE MEETING:

The Commission has added one item to be considered as the first item on the agenda: Election of a Vice-Chairman for the coming year. The remaining items on the agenda are unchanged. In adding this item, the Commission has determined that Agency business requires consideration of the matter without seven days advance notice.

[S-462-77 Filed 5-18-77;3:48 pm]

4

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Approximately 9:30 a.m., Friday, May 20, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Meeting.

MATTER TO BE CONSIDERED:

The Federal-State Joint Board convened pursuant to Section 410 of the Communications Act of 1934, as amended, will hold an open meeting on the "Impact of Customer Provision of Terminal Equipment on Jurisdictional Separations", Docket No. 20981.

The prompt and orderly conduct of Commission business requires that less than seven days notice be given of this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: May 18, 1977.

[S-460-77 Filed 5-18-77;3:48 pm]

5

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Not yet published.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:45 a.m., May 23, 1977.

CHANGES IN THE METING:

An application for Federal deposit insurance for the Bank of Hattiesburg, a proposed new bank to be located at 1300 Hardy Street, Hattiesburg, Mississippi, and a proposal for settling litigation arising in connection with the liquidation of the International City Bank and Trust Company, New Orleans, Louisiana, have been added to the agenda.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, (202–389–4446).

[S-458-77 Filed 5-18-77;2:22 pm]

6

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: 2 p.m., May 25, 1977.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary. Telephone 202–275–4166.

(This notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 8552B.)

This is a list of the matters to be considered by the Commission. It does not include a listing of all persons relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA—7619TH MEETING—MAY 25, 1977

REGULAR MEETING—PART I

P-1.—Docket Nos. E-7795, E-7789, Philadelphia Electric Company, N.Y.
P-2.—Docket Nos. E-8586, et al., Public Service Company, Indiana, Inc.
P-3.—Docket Nos. ER77-5, ER77-6, ER77-7, E-9544 and E-8152, Otter Tail Power Company.
P-4.—Docket No. ER77-175. Florida Power & Light Company.
P-5.—Docket No. ER77-131, Portland General Electric Company.
P-6.—Docket No. ER77-211, Mount Carmel Public Utility Company.
P-7.—Docket No. ER77-336, Oklahoma Gas & Electric Company.
P-8.—Docket No. E-9587, Upper Peninsula Power Company.
P-9.—(A) Docket No. ER77-339, West Texas Utilities Company.
(B) Docket Nos. ER76-747, ER76-753, West Texas Utilities Company (West Texas).
P-10.—Docket No. ER77-131, Portland General Electric Company.
P-11.—Docket No. E-9563, U.S. Department of the Interior, Bonneville Power Administration.
P-12.—Docket No. E-7671, Blandin Paper Company, et al.
P-13.—Project No. 2758, Brown Company.

GAS AGENDA—7619TH MEETING—MAY 25, 1977

REGULAR MEETING—PART I

G-1—Docket No. RP76-10, Arkansas Louisiana Gas Company.
G-2—Docket No. RP76-93, Kentucky West Virginia Gas Company.
G-3—Docket No. RP74-82, Columbia Gas Transmission Company.
G-4—Docket No. RP76-59, El Paso Natural Gas Company (rate design).
G-5—Docket No. RP76-59, El Paso Natural Gas Company.
G-6—Docket No. RP76-144, Fort Pierce Utility Authority, et al., complainants v. Florida Gas Transmission Company, respondent.
G-7—FPC Gas Rate Schedule Nos. 7 and 10, the Louisiana Land and Exploration Company.
G-8—FPC Gas Rate Schedule No. 1, Alfred J. Smith.
G-9—Docket No. R-389-B, file No. 339-668, Placid Oil Company, et al.
G-10—Docket No. CP77-130, Northern Natural Gas Company.
G-11—Docket No. CP74-33, Transcontinental Gas Pipe Line Corporation.
G-12—Docket No. CP77-327, Natural Gas Pipeline Company of America. Columbia Gulf Transmission Company and Tennesee Gas Pipeline Company, a division of Tenneco Inc.
G-13—Docket Nos. CP73-283 and CP73-284, Consolidated System LNG Company.

POWER AGENDA—7619TH MEETING—MAY 25, 1977

REGULAR MEETING—PART II

CP-1.—Docket No. ER77-323, Indiana & Michigan Electric Company.
CP-2.—Docket No. ER77-355, Southern California Edison Company.
CP-3.—Docket No. ER77-332, Indiana & Michigan Electric Company.
CP-4.—Docket No. ER77-309, Monogahela Power Company, West Penn Power Company.
CP-5.—Docket No. ES77-17, Kentucky Utilities Company.
CP-6.—Project No. 1746, E. L. Cord.
CP-7.—Project No 1927, Pacific Power & Light Company.
CP-8.—Project No. 2205 Central Vermont Public Service Corporation.

GAS AGENDA—7619TH MEETING—MAY 25, 1977

REGULAR MEETING—PART II

CG-1—Docket No. RP77-61, McCulloch Interstate Gas Corporation.
CG-2—Docket No. RP77-56, Northern Natural Gas Company.
CG-3—Docket Nos. RP77-54 and RP77-55, Arkansas Louisiana Gas Company.
CG-4—Docket No. RP77-59, South Texas Natural Gas Gathering Company.
CG-5—Docket No. RP77-60, Michigan Wisconsin Pipe Line Company.
CG-6—Docket No. RP77-64, Valley Gas Transmission, Inc.
CG-7—Docket No. RP77-5, Kansas-Nebraska Natural Gas Company, Inc.
CG-8—Docket No. C176-770, Amoco Production Company.
CG-9—Docket No. C176-731, Wise Oil Company.
GG-10—Docket Nos. C177-147, et al., Kerr-McGee Corporation, et al.
CG-11—Docket No. CP76-267, Texas Gas Transmission Corporation. Docket No. CP77-154, Tennessee Gas Pipeline Company, a division of Tenneco Inc. East Tennessee Natural Gas Company.
CG-12—Docket No. CP77-296, Texas Gas Transmission Corporation. Docket No. CP77-310, Tennessee Gas Pipeline Company, a division of Tenneco Inc. East Tennessee Natural Gas Company.
CG-13—Docket Nos. CP74-82 and CP74-83, Utah Gas Service Company. Docket No. CP74-158, Northwest Pipeline Corporation.
CG-14—Docket No. G-10012, et al., Coastal States Gas Producing Company, et al.
CG-15—Docket Nos. CP77-56 and CP77-117, Baca Gas Gathering System, Inc. Docket No. CP77-91, Panhandle Eastern Pipe Line Company.
CG-16—Docket No. CP77-284, Locust Ridge Gas Processing Company.
CG-17—Docket No. CP72-181, Panhandle Eastern Pipe Line Company.
CG-18—Docket No. CP76-497, United Gas Pipe Line Company.
CG-19—Docket No. CP77-134. Trunkline Gas Company.
CG-20—Docket No. CP77-71, Natural Gas Pipeline Company of America. Docket No. CP77-118, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation. Docket No. CP77-125, Texas Gas Transmission Corporation.
CG-21—Docket No. CP76-90, Kansas-Nebraska Natural Gas Company, Inc.

MISCELLANEOUS AGENDA—7619TH MEETING—MAY 25, 1977

REGULAR MEETING—PART II

CM-1—The Inland Gas Company, Inc.
CM-2—Commission minutes.
CM-3—RM74-16, Natural Gas Companies Annual Report of Proved Domestic Natural Gas Reserves, FPC Form No. 40.

KENNETH F. PLUMB,
Secretary.

[S-464-77 Filed 5-18-77;3:52 pm]

7

AGENCY HOLDING THE MEETING: United States International Trade Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24174 May 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., May 18, 1977.

CHANGES IN THE MEETING:

The discussion under agenda item No. 4, (Approval of report in investigation No. 332-80—Watches), previously announced as being held in open session, was closed to the public by a vote of a majority of the entire membership of the Commission. The closed session did not begin until public notice thereof had been posted.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason (202-523-0161).

By order of the Commission:

KENNETH R. MASON,
Secretary.

MARCH 18, 1977.

[S-456-77 Filed 5-19-77;8:57 am]

8

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 2 p.m., May 19, 1977.

PLACE: Hearing Room, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Approval of staff report in Investigation 332-80 (Watches).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161).

[S-467-77 Filed 5-19-77;9:48 am]

9

AGENCY HOLDING THE MEETING: Interstate Commerce Commission, Division 3.

TIME AND DATE: 10 a.m., May 19, 1977.

PLACE: Room 5124, Commission's Offices, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Supplemental Short Notice of Closed Meeting. A majority of Division 3, Comissioners Brown and Christian, have voted to add the following item to the agenda of the above closed meeting for the reason previously set forth in the prior notice.

ADDITIONAL MATTERS TO BE CONSIDERED:

Docket No. AB-36 (Sub-No. 2), Oregon Short Line Railroad Company and the Union Pacific Railroad Company-abandonment Portion Goshen Branch between Firth and Ammon, in Bingham and Bonneville Counties, Idaho.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin. Telephone 202-275-7252.

[S-466-77 Filed 5-19-77;8:57 am]

10

AGENCY HOLDING THE MEETING: The Renegotiation Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24801, May 16, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, May 31, 1977, 10 a.m.

CHANGES IN MEETING:

Item 9 of the announced agenda is amended to read as follows:

9. Recommended Finding or Determination of Excessive Profits:

a. American Manufacturing Company of Texas Fiscal Years Ended December 31, 1966–1970.

b. General Industrial Corporation Fiscal Years Ended February 29, 1968, February 28, 1969 and March 31, 1969–1972

c. Industrial Park Supply Company Fiscal Years Ended June 30, 1968–1972

Dated: May 18, 1977.

GOODWIN CHASE,
Chairman.

[S-461-77 Filed 5-18-77;3:48 pm]

11

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24801, May 16, 1977.

CHANGES IN THE MEETINGS:

1. May 18.—Delete Item 3 relating to proposed Amendments to Rules 15b10–6 and 17a–4 and Item 4 relating to proposed Rule 15b7–1.

2. May 19.—Delete Item 5—Proposal for Public Comment on revisions to Rule 19b–4. Additional staff consideration of these matters is required.

Chairman Williams, Commissioners Loomis, Evans and Pollack, have determined that Commission business requires the above changes and that no earlier announcement of the changes was possible.

Dated: May 17, 1977.

[S-459-77 Filed 5-18-77;2:46 pm]

12

AGENCY HOLDING THE MEETINGS: Securities and Exchange Commission.

DATES AND TIMES: Wednesday, May 25, 1977 and Thursday, May 26, 1977 at 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Open to Public Observation.

SUBJECT MATTER OF THE MAY 25 MEETING

(1) Proposed opinion respecting co-application of New England Power Company and New England Electric System for approval of sale of utility assets to Fitchberg Gas and Electric Light Company.

(2) Consideration of extension of time period for Commission action on applications for registration by clearing agencies.

(3) Consideration of publication for comment of proposed new or revised registration and annual report forms for management investment companies.

(4) (a) Valuation of debt securities by Money Market Funds and certain other open-end investment companies.

(b) Prospectus disclosure by Money Market Funds with respect to portfolio securities, average portfolio maturity and historical rates of return.

(5) Application of One Liberty Municipal Bond Fund, Inc. for exemption, subject to conditions, of the Fund's purchases of municipal bonds in public offerings in which an affiliate of the Fund's investment adviser participates as a principal underwriter.

(6) Proposed amendments to Exchange Act Rule 10b–4 to prohibit certain practices in connection with partial tender and exchange offers which have the effect of discriminating against shareholders by distorting the calculation of the prorata acceptance formula.

(7) (a) Suggested publication for comment of proposed Exchange Act Rule 15b7–1 establishing minimum qaulification standards for brokers and dealers and associated persons; proposed rescission of present Rule 15b8–1 setting forth qualification standards for SECO brokers and dealers and associated persons; proposed amendments to present Rule 15b10–4 relating to supervision; and proposed adoption of Form U–5 (the Uniform Form for Notice of Termination) for SECO broker-dealers; and

(b) Authorization for the staff to communicate to the NASD preliminary reactions on the NASD's proposed amendments to Schedule C relating to qualification requirements for members and persons associated.

The subject matter of the meeting scheduled for Thursday, May 26, 1977 will be:

(1) Meeting with representatives of the National Association of Securities Dealers, Inc. to discuss the "recapture" of underwriting discounts by investment companies.

Dated: May 18, 1977.

[S-468-77 Filed 5-19-77;11:36 am]

13

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

TIME AND DATE: 10:30 a.m., May 25, 1977.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Discussion of matters involved in *Distributors Opposing Objectionable Rates, Inc., et al. v. Tennessee Valley Authority and Distributors Intervening For Fair and Equitable Rates*, No. CA 76–P–1734–NE (N.D. Ala., Apr. 5, 1977).

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202–343–4537).

Dated: May 18, 1977.

[S-463-77 Filed 5-18-77;3:52 pm]

federal register

MONDAY, MAY 23, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

INDIAN HEALTH CARE IMPROVEMENT ACT

Health Professions Recruitment and Scholarship Grant Programs, Etc., and Preferential Purchasing

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 36]

INDIAN HEALTH CARE IMPROVEMENT ACT PROGRAMS

Proposed Rulemaking

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed Rules.

SUMMARY: These proposed rules prescribe requirements for Indian health professions recruitment and scholarship grant programs, continuing education allowances for employees of the Indian Health Service, contracts with urban Indian organizations, and leasing with Indian tribes authorized by the Indian Health Care Improvement Act. These programs are intended to encourage Indians to enter the health professions and to ensure the availability of Indian health professionals to serve Indians.

DATE: Comments on these proposed rules must be received by July 7, 1977.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A-55 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT:

Robert C. Birch, Indian Health Service, (301-443-1044).

SUPPLEMENTARY INFORMATION: These proposed rules prescribe requirements for Indian health professions recruitment and scholarship grant programs, continuing education allowances for employees of the Indian Health Service, contracts with urban Indian organizations, and leasing with Indian tribes authorized by sections 102, 103, 104, 106, 502 and 704 of the Indian Health Care Improvement Act, Pub. L. 94-437 (25 U.S.C. 1601 et seq.). Appropriations are authorized by the Indian Health Care Improvement Act for the grant and contract programs covered by these proposed rules beginning in fiscal year 1978 (October 1, 1977 through September 30, 1978) and section 702 of that Act requires final publication of implementing regulations by July 31, 1977.

The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new Subpart J to 42 CFR Part 36.

The proposed subpart J is divided into seven subdivisions as follows:

J-1.—Provisions of General and Special Applicability.
J-2.—Health Professions Recruitment Program for Indians.
J-3.—Health Professions Preparatory Scholarship Program for Indians.
J-4.—Indian Health Scholarship Program.
J-5.—Continuing Education Allowances.
J-6.—Contracts With Urban Indian Organizations.
J-7.—Leases With Indian Tribes.

RECRUITMENT PROGRAM

Health professions recruitment grants under subdivision J-2 are intended to assist grantees to: (1) Identify and recruit Indians with a potential for education or training in the health professions and (2) provide technical assistance and counseling to help those Indians enroll in health professions schools or undertake the post-secondary education or training necessary to qualify them to enroll. Health professions schools are defined in the proposed regulations and include schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing and the allied health professions.

Section 102 of the Indian Health Care Improvement Act, which authorizes the recruitment grant program, requires a preference for Indian tribes and tribal organizations in the award of grants. To contribute to Indian self-determination, the proposed regulations also give a preference to Urban Indian organizations and other Indian health organizations, although any public or nonprofit private health or educational entity is eligible.

SCHOLARSHIPS

Preparatory scholarships under subdivision J-3 may be awarded to Indians who have completed their high school education and demonstrated the capability to successfully complete courses of study in health professions schools. The scholarships, authorized by section 103 of the Indian Health Care Improvement Act, are for "compensatory preprofessional education", which is defined to mean preprofessional education necessary to compensate for deficiencies in an individual's prior education in order for that individual to qualify for enrollment in a health professions school. The preparatory scholarships may be awarded for the period (not to exceed two academic years) necessary to complete a recipient's compensatory preprofessional education. The proposed regulations at § 36.320 specify three examples where the scholarships would apply:

(1) Where an individual has a high school education but needs compensatory education to qualify for enrollment in a health professions school;

(2) Where an individual has a baccalaureate degree but needs compensatory preprofessional education to qualify for enrollment in a health professions school; or

(3) Where an individual has been enrolled in a health professions school but is no longer enrolled and needs compensatory preprofessional education to qualify for readmission.

Section 104 of the Indian Health Care Improvement Act amends section 225 of the Public Health Service Act to authorize the award of Indian Health Scholarships to students in health professions schools under section 225. Regulations implementing section 225, which authorizes the Public Health and National Health Service Corps Scholarship Training Program, are set out at 42 CFR Part 62. The proposed regulations at subdivision J-4 add certain requirements for purposes of Indian Health Scholarships consistent with the amendments to section 225 added by section 104 of the Indian Health Care Improvement Act, such as a preference for Indians and an obligation to serve Indians upon completion of academic training.

It is noted that the Indian Health Scholarship Program is part of section 225 of the Public Health Service Act which was repealed effective October 1, 1977 by section 408(b) of the Health Professions Educational Assistance Act of 1976, Pub. L. 94-484. However, regulations for the Indian Health Scholarship Program are proposed at this time on the expectation that Congress may take corrective action before the repeal becomes effective.

Section 36.303 of the proposed regulations requires Indians applying for scholarships under subdivisions J-3 or J-4 to submit evidence of tribal membership as specified in that section. Members of State recognized tribes or tribes terminated since 1940 are also required to submit evidence that their tribes are State recognized or terminated since 1940 unless their tribe appears on a list of such tribes to be published from time to time by the Secretary in the FEDERAL REGISTER.

URBAN PROGRAM

Contracts with urban Indian organizations under subdivision J-6 will assist those organizations to carry out programs in urban centers to make health services more accessible to the urban Indian population. An urban center is defined in § 36.302(s) as "any city, with a population of 50,000 or more as determined by the United States Census Bureau, which the Secretary determines has a sufficient urban Indian population with unmet health needs to warrant assistance under Title V of the Indian Health Care Improvement Act."

Attention is also called to the definition of "urban Indian organization" in § 36.302(u). Among other things, effective October 1, 1977 an urban Indian organization must: (1) Have the provision of health programs as its principal function and (2) be governed by a board of directors elected by the members of the organization. Any organization administering an urban Indian health project under a contract entered into prior to October 1, 1977 will have until the conclusion of the contract period to meet these two requirements. The delay in imposing these requirements is proposed in the interest of program continuity as certain organizations currently administering urban health projects have other major purposes besides provision of health programs.

LEASES WITH INDIAN TRIBES

Under subdivision J-7, the Indian Health Service may lease from Indian tribes any land or facilities which the Service would otherwise be authorized to acquire or build. This authority is provided in section 704 of the Indian Health Care Improvement Act which authorizes leases with Indian tribes for not to exceed 20 years. Under this new long term

leasing authority, the Service may lease directly from Indian tribes without going through the General Services Administration.

2. There have been, since Pub. L. 94–437 was enacted, over 110 meetings in 47 communities involving IHS staff working with national and regional Indian organizations, Indian leaders, other Indian and Alaska Native people, and other interested parties. This consultation process and active participation has been instrumental in the development of the rules and regulations necessary to implement the Act, and has satisfied both the spirit and intent of the NOI.

Section 702(a) (1) of the Act states:

> Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

The Indian Health Service (IHS) on October 1, 1976, the day after the Act was signed by the President, initiated a national "joint-effort" involving the American Indian and Alaska Native people and IHS staff working together to plan the implementation of Pub. L. 94–437.

Since the Act specifies strict time frames for certain activities to be accomplished, including publication of proposed rules and regulations in the FEDERAL REGISTER within eight months from enactment, and promulgation of implementing rules and regulations within ten months from enactment, the IHS designed a plan to meet the time requirements stated in the law while preserving the opportunity for public input into the process of regulations development inherent in the Secretary's new regulations policies.

Major activities involved in encouraging and achieving maximum public participation of American Indian and Alaska Native people and other interested parties in the Pub. L. 94–437 Process, including regulations development, are described as follows:

OCTOBER

1. The Project Manager for Pub. L. 94–437 was selected and seven key IHS Headquarters personnel were designated as Title Managers, one for each of the Act's titles. This group was identified as the IHS Core Team whose objective was:

To assist the Director, Indian Health Service, in preparing for the Indian Health Service to implement the provisions of this Act in an orderly, timely and complete manner.

One of the Core Team's first activities was to analyze the experiences IHS gained in plainning and implementing the Indian Self-Determination and Education Assistance Act—Pub. L. 93–638.

2. The Director of each of the twelve IHS Area or Program Offices selected a key staff member as Pub. L. 94–437 Coordinator. Although the IHS Area Director was administratively responsible for all Pub. L. 94–437 activities in the geographic Area of his or her responsibility, the Coordinator was responsible for coordinating all such activities, and communicating to and from the Indian people and other interested parties throughout the Area and to and from the Project Manager for Pub. L. 94–437 and the IHS Core Team.

3. Since IHS plans national health activities with representatives of national Indian organizations, four major national Indian organizations were invited to select a representative to serve on the Pub. L. 94–437 Policy Council. The purposes of the Policy Council were:

a. To recommend to the Director, Indian Health Service, policy and program actions involved in the Pub. L. 94–437 process;

b. To review progress of IHS Core Team activities; and

c. To participate with the IHS Core Team in Pub. L. 94–437 activities.

The Policy Council consists of six persons, four representing National Indian Organizations. Members are representatives selected by the National Indian Health Board, National Congress of American Indians, National Tribal Chairmen's Association, American Indian Health Care Association, IHS Council of Area Directors, and IHS Core Team. The Policy Council, a majority (67 percent) of the members of which are Indian people, considers the needs and problems of all American Indian and Alaska Native people. The Council meets at least monthly. Results of Policy Council actions are distributed routinely to national Indian organizations and IHS Headquarters staff by the IHS Core Team; and to regional Indian organizations, tribal governments and tribal organizations, urban Indian groups, IHS Area and Service Unit Health Boards, CHR tribal coordinators, IHS staff, and other interested parties by IHS Area Pub. L. 94–437 Coordinators.

4. The IHS developed a direct method of communication for securing public input (questions, comments, ideas, suggestions, recommendations) using Communication Cards (COMMCARDS) which are duly considered in the preparation of the proposed regulations with appropriate responses provided to the originator of the input.

5. *October 14.* Presentation made to the National Tribal Chairmen's Association Board of Directors regarding Pub. L. 94–437 opportunities, plans and activities.

6. *October 15.* About 2,000 sets of Pub. L. 94–437 briefing materials were sent in the first massive mailing to National Indian Organizations and, through the twelve IHS Area Pub. L. 94–437 Coordinators, to Regional Indian organizations, tribal governments, tribal organizations, urban Indian groups, IHS Area and Service Unit Health Boards, CHR tribal coordinators, IHS staff, and other interested parties. The briefing materials included the Act, an analysis of the Act, a copy of the signature document, a statement of differences between authorization and appropriation legislation, and a progress report.

7. *October 18–22.* The IHS Core Team participated in the annual meeting of the National Congress of American Indians in Salt Lake City, Utah, as an invited resource to the Health and Social Welfare Concerns Committee and presented a briefing on Pub. L. 94–437 that was actively attended by about 100 persons. The meeting involved representatives of the National Tribal Chairmen's Association, National Indian Health Board, American Indian Health Care Association, and other national and regional Indian organizations.

8. *October 25–30.* IHS Core Team members, with the respective Area Pub. L. 94–437 Coordinators, presented briefings for IHS staff and Indian and Alaska Native leaders in various locations in the IHS Areas to inform the Indian people about Pub. L. 94–437 and secure their comments, questions and suggestions on COMMCARDS for study and consideration throughout the Pub. L. 94–437 Process—including development of regulations.

9. *October 27.* Presentation made to National Indian Health Board Executive Council regarding Pub. L. 94–437 opportunities, plans and activities.

NOVEMBER

1. *Various dates.* Area Pub. L. 94–437 Coordinators (continued to conduct briefings in their Areas. Examples of locations where those briefings were held included: Alaska—Anchorage; Arizona—Phoenix, San Xavier, Tempe, Tucson, Window Rock; California—Sacramento; Colorado—Denver; District of Columbia—Washington; Massachusetts—Boston; Maryland—Bethesda, Rockville; Minnesota—Bemidji, Cass Lake, Duluth; Montana—Billings, Lame Deer, Poplar; North Carolina—Pembroke; North Dakota—Bismarck; New Mexico—Albuquerque, Santa Fe; Nevada—Schurz; New York—New York City; Oklahoma—Oklahoma City, Shawnee, Tulsa; Oregon—Portland; Pennsylvania—Philadelphia; South Dakota—Aberdeen, Pierre, Rosebud, Sisseton; Tennessee—Nashville; Utah—Salt Lake City; Washington—Yakima.

2. *November 12.* Second massive mailing of informational materials including summary of November 4–5 meeting of Policy Council; strategy to encourage maximum participation of American Indian and Alaska Native people in the Pub. L. 94–437 process, responsibilities of Area Pub. L. 94–437 Coordinators; names, addresses, and phone numbers of Policy Council members; names and phone numbers of Area Pub. L. 94–437 Coordinators.

3. *November 26.* Third massive mailing of Pub. L. 94–437 materials including House and Senate reports for study and use by Indian and Alaska Native people throughout the United States in understanding Congressional Intent in enacting Pub. L. 94–437.

4. *November 29–December 1.* The IHS Core Team and Policy Council conducted a three-day Training Workshop in Albuquerque, New Mexico to prepare persons from each of twelve IHS Areas and Programs to be able to conduct workshops in December and later in their own Area or Program. Priority attendees were five

Tribal (non-IHS) Title Representatives (Titles I, II, III, IV, VI of the Act) and one Urban (non-IHS) Title Representative (title V) and the Area Pub. L. 94–437 Coordinator. Other attendees were six additional IHS Title Representatives for Titles I, II, III, IV, V, VI. Results—over 200 participants at the Workshop of whom about 63 percent were Indian or Alaska Native people representing about 60 different Indian tribes or Alaska Native groups. An excellent example of the "joint effort" was the Indian and Alaska Native (non-IHS) Title Representatives working together with IHS Title Representatives to plan and organize their Area Workshops in December and later:

DECEMBER

1. *Various Dates.* Pub. L. 94–437 Workshops conducted in each of twelve IHS Areas and Programs to better inform Indian and Alaska Native people about Pub. L. 94–437 and to secure their input on COMMCARDS for study and consideration throughout the Pub. L. 94—437 Process—including development of regulations. All COMMCARDS were forwarded to IHS Headquarters to the IHS Core Team for review, response, and inclusion in Title MASTER LISTS of questions, responses, recommendations, and other; and return of copy of completed COMMCARD to the Area Pub. L. 94–437 Coordinator to return a copy to the person who originated the input. Examples of locations where these Workshops were held include:

Alaska—Anchorage; Arizona—Flagstaff, Phoenix, Tucson; Minnesota—Duluth; Montana—Billings; New Mexico—Albuquerque; Nevada—Reno-Sparks; Oklahoma—Oklahoma City; South Dakota—Pierre; Tennessee—Nashville; Washington—Seattle.

2. *December 20.* Fourth massive mailing of Pub. L. 94–437 materials including progress report through December 15; summary of December 6–7 meeting of Policy Council; and minutes of IHS–NIAAA meeting of November 22–23, 1976.

JANUARY

1. *January 3–7.* Pub. L. 94–437 Writing Workshop conducted at IHS Headquarters in Rockville, Maryland. The workshop was publicized and participation was open to the public. Purpose—to develop recommended guidelines and draft specifications for regulations. Participants—six Tribal (non-IHS) Core Representatives—one for each title—selected at the Training Workshop in Albuquerque, New Mexico, November 29–December 1 to participate in this Workshop; IHS Core Team, twelve IHS Area Pub. L. 94–437 Coordinators and other Indian people who participated because of their own interest. Each participant considered the needs and concerns of all Indian and Alaska Native people. The first day or more was spent with the participants studying and considering all input from Indian and Alaska Native people and other interested parties that had been received by the IHS Core Team through the Area Pub. L. 94–437 Coordinators during October–November–December and early January. Thus, public input was utilized, and will continue to be utilized throughout the Pub. L. 94–437 Process.

To verify that the IHS has the organizational structure, experience, and ability to communicate directly and effectively with Indian leadership on the local, regional, and national levels, the following summarized data are presented for the period October 1, 1976–February 15, 1977:

Number of Pub. L. 94–437 meetings held throughout United States	110
Number of different communities in which meetings were held	47
Number of people at meetings	4,308
Indian/Alaska Native people represented at meetings	[1]800,000
Number of COMMCARDS processed by IHS Core Team	2,151

2. *January 8–17.* IHS Core Team continued work on specifications for proposed regulations, studying and considering all input on COMMCARDS to date from Indian and Alaska Native people and other interested parties.

3. *January 18–19.* IHS Core Team reviewed specifications for proposed regulations with Policy Council. Recommendations made by Policy Council to Director, Indian Health Service.

Written comments concerning the proposed regulations set out below are invited. Written data, views, or arguments relating to the proposed regulations may be presented in writing to the Director, Indian Health Service, Room 5A55, 5600 Fishers Lane, Rockville, Maryland 20857. Commentors are encouraged to reference their comments by section of the proposed regulations although this is not required. All material received will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m. and all material received on or before July 7, 1977 will be considered in the preparation of the final regulation.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring prepartion of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: March 22, 1977.

JAMES F. DICKSON,
Assistant Secretary for Health.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Part 36 of Title 42 is amended by adding the following subpart:

Subpart J—Indian Health Care Improvement Act Programs

SUBDIVISION J–1—PROVISIONS OF GENERAL AND SPECIAL APPLICABILITY

Sec:

36.301 Policy and Applicability.
36.302 Definitions.
36.303 Indians applying for scholarships.
36.304 Additional Conditions.

[1] Estimated.

SUBDIVISION J–2—HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

Sec.

36.310 Health professions recruitment grants.
36.311 Eligibility.
36.312 Application.
36.313 Evaluation and grant awards.
36.314 Payment and use of funds.
36.315 Publication of list of grantees and projects.
36.316 Alteration or renovation.
36.317 Grantee accountability.
36.318 Publication and copyright.
36.319 Applicability of 45 CFR Part 74.

SUBDIVISION J–3—HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

36.320 Preparatory scholarship grants.
36.321 Eligibility.
36.322 Application and selection.
36.323 Scholarship and tuition.
36.324 Publication of a list of recipients.

SUBDIVISION J–4—INDIAN HEALTH SCHOLARSHIP PROGRAM

36.330 Indian Health Scholarships.
36.331 Eligibility.
36.332 Selection.
36.333 Service obligation.
36.334 Distribution of scholarships.

SUBDIVISION J–5—CONTINUING EDUCATION ALLOWANCES

36.340 Provision of continuing education allowances.

SUBDIVISION J–6 CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

36.350 Contracts with urban Indian organizations.
36.351 Application and selection.
36.352 Fair and uniform provision of services.
36.353 Reports and records.

SUBDIVISION J–7—LEASES WITH INDIAN TRIBES

36.360 Leases with Indian tribes.

Subpart J—Indian Health Care Improvement Act Programs

AUTHORITY: Sec. 103, 103, 104, 106, 502, and 704 of P.L. 94–437 (25 U.S.C. 1612 and 1613, 42 U.S.C. 234(1), 25 U.S.C. 1615, 1652, and 1674; sec. 702 of P.L. 94–437 (25 U.S.C. 1672).

SUBDIVISION J–1 PROVISIONS OF GENERAL AND SPECIAL APPLICABILITY

§ 36.301 Policy and applicability.

(a) *Policy.* (1) It is the policy of the Secretary to encourage Indians to enter the health professions and to ensure the availability of Indian health professionals to serve Indians. The recruitment and scholarship programs under this subpart will contribute to this objective.

(2) The regulations of this subpart are intended to be consistent with principles of Indian self-determination and to supplement the responsibilities of the Indian Health Service for Indian health manpower planning and for assisting Indian tribes and tribal organizations in the development of Indian manpower programs.

(b) *Applicability.* The regulations of this subpart are applicable to the following activities authorized by the Indian Health Care Improvement Act:

(1) The award of health professions recruitment grants under section 102 of

the Act to recruit Indians into the health professions (Subdivision J–2);

(2) The award of preparatory scholarship grants under section 103 of the Act to Indians undertaking compensatory preprofessional education (Subdivision J–3);

(3) The award of Indian Health Scholarship grants pursuant to section 225(i)(2) of the Public Health Service Act, as added by section 104 of the Act, to Indian or other students in health professions schools (Subdivision J–4);

(4) The provision of continuing education allowances to health professionals employed by the Service under section 106 of the Act (Subdivision J–5);

(5) Contracts with urban Indian organizations under section 502 of the Act to establish programs in urban areas to make health services more accessible to the urban Indian population (Subdivision J–6); and

(6) Leases with Indian tribes under section 704 of the Act (Subdivision J–7).

§ 36.302 Definitions.

As used in this subpart: (a) "Act" means the Indian Health Care Improvement Act, Pub. L. 94–437 (25 U.S.C. 1601 et seq.).

(b) "Academic year" means the traditional approximately 9 month September to June annual session, except for students who attend summer session in addition to the traditional academic year during a 12 month period, for whom the academic year will be considered to be of approximately 12 months duration.

(c) "Budget period" means the interval of time into which the approved activity is divided for budgetary purposes, as specified in the grant award document.

(d) "Compensatory preprofessional education" means any preprofessional education necessary to compensate for deficiencies in an individual's prior education in order to enable that individual to qualify for enrollment in a health professions school.

(e) "Health or educational entity" means an organization, agency, or combination thereof, which has the provision of health or educational programs as one of its major functions.

(f) "Health professions school" means any of the schools defined in paragraphs (l), (m) or (n) of this section.

(g) "Indian" or "Indians" means, for purposes of Subdivisions J–2 and J–3 of this subpart, any person who is a member of an Indian tribe, as defined in paragraph (i) of this section or any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band or other organized group terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is the natural child or grandchild of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(h) "Indian health organization" means a nonprofit corporate body composed of Indians which provides for the maximum participation of all interested Indian groups and individuals and which has the provision of health programs as its principal function.

(i) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(j) "Nonprofit" as applied to any private entity means that no part of the net earnings of such entity inures or may lawfully inure to the benefit of any private shareholder or individual.

(k) "Project period" means the total time for which support for a project has been approved, as specified in the grant award document.

(l) "School of allied health professions" means a junior college, college, or university—

(1) Which provides, or can provide, programs or education leading to a baccalaureate or associate degree (or to the equivalent of either) or to a higher degree in medical technology, optometric technology, dental hygiene, or in any of such other of the allied health professions curricula as are specified by regulation of the Secretary;

(2) Which is affiliated with a teaching hospital; and

(3) Which is accredited or assured accreditation by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(m) "School of medicine," "school of dentistry," "school of osteopathy," "school of pharmacy," "school of optometry," "school of podiatry," "school of veterinary medicine," and "school of public health" means a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dental surgery or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of podiatry or an equivalent degree, and a graduate degree in public health, and including advanced training related to such training provided by any such school, and is accredited or assured accreditation by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(n) "School of nursing" means a collegiate, associate degree, or diploma school of nursing, as those terms are defined in this paragraph below, which is accredited or assured accreditation by a recognized body or bodies approved for such purpose by the Commissioner of Education:

(1) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school;

(2) The term "associated degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree;

(3) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed.

(o) "Secretary" means the Secretary of Health, Education, and Welfare and any other Officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(p) "Service means the Indian Health Service.

(q) "State or local government" means any public health or educational entity which is included within the definition of State or local government in 45 CFR 74.3 and Indian tribes or tribal organizations.

(r) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(s) "Urban center" means any city, with a population of 50,000 or more as determined by the United States Census Bureau, which the Secretary determines has a sufficient urban Indian population with unmet health needs to warrant assistance under Title V of the Act.

(t) "Urban Indian" means any individual who resides in an urban center, as defined in paragraph(s) of this section, and who meets one or more of the four criteria in paragraph (g) (1) through (4) of this section.

(u) "Urban Indian organization" means a nonprofit corporate body situated in an urban center which:

(1) Is composed of urban Indians;

(2) Has the provision of health programs as its principal function;

(3) Is governed by a board of directors elected by the members of the organization;

(4) Provides for the maximum participation of all interested Indian groups and individuals; and

(5) Is capable of legally cooperating with other public and private entities

for the purpose of performing the activities described in § 36.350(a) of Subdivision J–6 of this subpart. Except, that criteria (2) and (3) of this subsection shall not apply to an organization administering an urban Indian health project under a contract with the Secretary prior to October 1, 1977, for the period of such contract.

§ 36.303 Indians applying for scholarships.

(a) For purposes of scholarship grants under Subdivisions J–3 and J–4 of this subpart, Indian applicants must submit evidence of their tribal membership (or other evidence that the applicant is an Indian as defined in paragraph (g) of § 36.302 of this subdivision) satisfactory to the Secretary.

(b) Where an applicant is a member of a tribe recognized by the Secretary of the Interior, the applicant must submit evidence of his or her tribal membership, such as:

(1) Certification of tribal enrollment by the Secretary of the Interior acting through the Bureau of Indian Affairs (BIA); or

(2) In the absence of such BIA certification, documentation that the applicant meets the requirements of tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the tribe and has been officially designated a tribal member by an authorized tribal official; or

(3) Other evidence of tribal membership satisfactory to the Secretary.

(c) Where the applicant is a member of a tribe terminated since 1940 or a State recognized tribe, the applicant must submit documentation that the applicant meets the requirements of tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the tribe and has been officially designated a tribal member by an authorized tribal official; or other evidence, satisfactory to the Secretary, that the applicant is a member of the tribe. In addition, if the terminated or State recognized tribe of which the applicant is a member is not on a list of such tribes published by the Secretary in the FEDERAL REGISTER, the applicant must submit documentation as may be required by the Secretary that the tribe is a tribe terminated since 1940 or is recognized by the State in which the tribe is located in accordance with the law of that State.

(d) An applicant who is not a tribal member, but who is a natural child or grandchild of a tribal member as defined in paragraph (g) of § 36.302 of this subdivision must submit evidence of such fact which is satisfactory to the Secretary, in addition to evidence of his or her parent's or grandparent's tribal membership in accordance with paragraphs (b) and (c) of this section.

§ 36.304 Additional conditions.

The Secretary may, with respect to any grant award under this subpart, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

NOTE.—*Nondiscrimination.* (a) Grants and contracts under this subpart are exempted from the requirements of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d), prohibiting discrimination on the basis of race, color or national origin, by regulation at 45 CFR 80.3(d) which provides, with respect to Indian Health Services, that "An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his."

(b) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

(c) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SUBDIVISION J–2—HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

§ 36.310 Health professions recruitment grants.

Grants awarded under this subdivision, in accordance with section 102 of the Act, are for the purpose of assisting in meeting the costs of projects to:

(a) Identify Indians with a potential for education or training in the health professions and encouraging and assisting them (1) To enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (2), if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;

(b) Publicize existing sources of financial aid available to Indians enrolled in any school referred to in paragraph (a)(1) of this section or who are undertaking training necessary to qualify them to enroll in any such school; or

(c) Establish other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in paragraph (a)(1) of this section.

§ 36.311 Eligibility.

Any Indian tribe, tribal organization, urban Indian organization, Indian health organization or any public or other nonprofit private health or educational entity is eligible to apply for a health professions recruitment grant under this subdivision.

§ 36.312 Application.

(a) An application for a health professions recruitment grant under this subdivision shall be submitted to the Secretary at such time and in such form and manner as the Secretary acting through the Service may prescribe.[1]

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subdivision.

(c) In addition to such other pertinent information as the Secretary may require, the application for a health professions recruitment grant shall contain the following:

(1) A description of the legal status and organization of the applicant;

(2) A description of the current and proposed participation of Indians in the activities of the applicant (if any);

(3) A description of the target Indian population to be served by the proposed project and the relationship of the applicant to that population;

(4) A narrative description of the nature, duration, purpose, need for and scope of the proposed project and of the manner in which the applicant intends to conduct the project including:

(i) Specific measurable objectives for the proposed project;

(ii) How the described objectives are consistent with the purposes of section 102 of the Act;

(iii) The work and time schedules which will be used to accomplish each of the objectives;

(iv) A description of the administrative, managerial, and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project;

(v) The name and qualifications of the project director or other individual responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project;

(5) An itemized budget for the entire project period for which support is sought and justification of the amount of grant funds requested;

(6) The intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions;

(7) When the target population of a proposed project includes a particular Indian tribe or tribes, an official document from the tribal governing body indicating that the tribe or tribes will cooperate with the applicant.

(d) In the case of proposed projects for identification of Indians with a po-

[1] Applications and instructions may be obtained from the appropriate Indian Health Service Area or Program Office.

tential for education or training in the health professions, applications must include a method for assessing the potential of interested Indians for undertaking necessary education or training in the health professions. Proposed projects may include, but are not limited to, the following activities:

(1) Identifying Indian elementary and secondary school students through observations, aptitude or other testing, academic performance, performance in special projects and activities, and other methods as may be designed or developed;

(2) Identifying Indians in college or university programs, related employment, upward mobility programs or other areas of activity indicative of interest and potential;

(3) Review of the upward mobility plans, skills banks etc. of organizations employing Indians to identify individuals with appropriate career orientations, expression of interest, or recognized potential;

(4) Conducting workshops, health career days, orientation projects or other activities to identify interested Indians at any age level;

(5) Performing liaison activities with Indian professional organizations, Indian education programs (including adult education), Indian school boards, Indian parent, youth recreation or community groups, or other Indian special interest or activity groups;

(6) Identifying those Indians with an interest and potential who cannot undertake compensatory education or training in the health professions because of financial need.

(e) Proposed projects designed to encourage and assist Indians to enroll in health professions schools; or, if not qualified to enroll, to undertake post-secondary education or training required to qualify them for enrollment may include, but are not limited to, the following activities:

(1) Providing technical assistance and counseling to encourage and assist Indians identified as having a potential for education or training in the health professions—

(i) To enroll in health professions schools,

(ii) To undertake any post-secondary education and training required to qualify them to enroll in health professions schools, and

(iii) To obtain financial aid to enable them to enroll in health professions schools or undertake post-secondary education or training required to qualify them to enroll in such schools;

(2) Conducting programs to (i) identify factors such as deficiencies in basic communication, research, academic subject matter (such as science, mathematics, etc.), or other skills which may prevent or discourage Indians from enrolling in health professions schools or undertaking the post-secondary education or training required to qualify them to enroll, and (ii) provide counseling and technical assistance to Indians to assist them in undertaking the necessary education, training or other activities to overcome such factors.

(f) Proposed projects to publicize existing kinds of financial aid available to Indians enrolled in health professions schools or to Indians undertaking training necessary to qualify them to enroll in such schools may include, but are not limited to, the following activities:

(1) Collecting information on available sources of financial aid and disseminating such information to Indian students, Indians, recruited under programs assisted by grants under this subdivision and to Indian tribes, tribal organizations, urban Indian organizations, Indian health organizations and other interested groups and communities throughout the United States;

(2) Providing information on available sources of financial aid which can be utilized by programs and counselors assisting Indians to obtain financial aid.

(g) Proposed projects for establishment of other programs which will enhance or facilitate enrollment of Indians in health professions schools and the subsequent pursuit and completion by them of courses of study in such schools may include, but are not limited to, the following activities:

(1) Compilation and dissemination of information on—(i) Health professions education or training programs and the requirements for enrollment in such programs; and

(ii) Post-secondary education or training curricula and programs designed to qualify persons for enrollment in health professions schools;

(2) Developing and coordinating career orientation programs in local schools (including high schools) and colleges and universities;

(3) Developing programs to enable Indians to gain exposure to the health professions such as arranging for (i) visits to health care facilities and programs and meetings or seminars with health professionals, (ii) part-time summer or rotating employment in health care facilities, programs, or offices of health professionals, (iii) volunteer programs, or (iv) other means of providing such exposure:

(4) Developing programs which relate tribal culture and tradition, including native medicine, to careers in the health professions; and

(5) Developing programs to make Indians aware of projected health manpower needs, expected employment opportunities in the health professions, and other factors in order to orient and motivate Indians to pursue careers in the health professions.

§ 36.313 Evaluation and grant awards.

(a) Within the limits of funds available for such purpose, the Secretary, acting through the Service, may award health professions recruitment grants to those eligible applicants whose proposed projects will in his judgment best promote the purposes of section 102 of the Act, taking into consideration:

(1) The potential effectiveness of the proposed project in carrying out such purposes;

(2) The capability of the applicant to successfully conduct the project;

(3) The accessibility of the applicant to target Indian communities or tribes, including evidence of past or potential cooperation between the applicant and such communities or tribes;

(4) The relationship of project objectives to known or anticipated Indian health manpower deficiencies;

(5) The soundness of the fiscal plan for assuring effective utilization of grant funds;

(6) The completeness of the application.

(b) Preference shall be given to applicants in the following order of priority (1) Indian tribes and tribal organizations, (2) urban Indian organizations and other Indian health organizations, and (3) public and other nonprofit private health or educational entities.

(c) The amount of any award under this subdivision will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either: (1) On the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(d) All grant awards shall be in writing, and shall set forth the amount of funds granted and the period for which support is provided.

(e) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application at such times and in such form as the Secretary may dictate.

§ 36.314 Payment and use of funds.

(a) The Secretary acting through the Service will make payments to a grantee either by way of reimbursement for expenses incurred in the project period, or in advance for expenses to be incurred, to the extent he determines such payments are necessary to promptly initiate and conduct the approved project.

(b) Any funds granted under this subdivision shall be used solely for carrying out the approved project in accordance with section 102 of the Act, the regulations of this subdivision, and the terms and conditions of the grant award.

§ 36.315 Publication of list of grantees and projects.

The Secretary acting through the Service shall publish annually in the FEDERAL REGISTER a list of organizations receiving grants under this subdivision including for each grantee:

(a) The organization's name and address

(b) The amount of the grant

(c) A summary of the project's purposes and its geographic location.

§ 36.316 Alteration or renovation.

Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965) as amended, and with applicable rules, regulations, and procedures prescribed under that Order.

§ 36.317 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart except that when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant shall be accounted for as follows:

(1) *State and local governments.* Where the grantee is a State or local government royalties shall be accounted for as provided in 45 CFR 74.44.

(2) *Grantees other than State and local governments.* Where the grantee is not a State or local government as so defined, royalties shall be accounted for as follows:

(i) Patent royalties, whether received during or after the grant period, shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(ii) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of the costs of publishing or producing the materials shall be distributed in accordance with Chapter 1-420, Department of Health, Education, and Welfare Grants Administration Manual.[2]

(c) *Grant closeout.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successor or assigns by set-off or other action as provided by law.

§ 36.318 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 36.319 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles shall apply to all grants under this subpart to State and local governments. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this subpart:

SUBPART

A—General.
B—Cash Depositories.
C—Bonding and Insurance.
D—Retention and Custodial Requirements for Records.
F—Grant-Related Income.
K—Grant Payment Requirements.
L—Budget Revision Procedures.
M—Grant Closeout, Suspension, and Termination.
O—Property.
Q—Cost Principles.

[2] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

SUBDIVISION J-3.—HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

§ 36.320 Preparatory scholarship grants.

Scholarship grants may be awarded under this subdivision and section 103 of the Act for the period (not to exceed two academic years) necessary to complete a recipient's compensatory preprofessional education to enable the recipient to qualify for enrollment or re-enrollment in a health professions school. Examples of individuals eligible for such grants are the individual who:

(a) Has completed high school equivalency and needs compensatory preprofessional education to enroll in a health professions school;

(b) Has a baccalaureate degree and needs compensatory preprofessional education to qualify for enrollment in a health professions school; or

(c) Has been enrolled in a health professions school but is no longer so enrolled and needs preprofessional education to qualify for readmission to a health professions school.

§ 36.321 Eligibility.

To be eligible for a preparatory scholarship grant under this subdivision an applicant must:

(a) Be an Indian;

(b) Have successfully completed high school education or high school equivalency;

(c) Have demonstrated to the satisfaction of the Secretary the desire and capability to successfully complete courses of study in a health professions school;

(d) Be accepted for enrollment in or be enrolled in any compensatory preprofessional education course or curriculum meeting the criteria in § 36.320 of this subdivision;

(e) Be a citizen of the United States.

§ 36.322 Application and selection.

(a) An application for a preparatory scholarship grant under this subdivision shall be submitted in such form and at such time as the Secretary acting through the Service may prescribe.[3] However, an application must indicate: (1) The health profession which the applicant wishes to enter and (2) whether the applicant intends to provide health services to Indians upon completion of health professions eduction or training by serving as described in section 36.333 or otherwise as indicated on the application.

(b) Within the limits of funds available for the purpose, the Secretary, acting through the Service, shall make scholarship grant awards for a period not to exceed two academic years of an individual's compensatory preprofes-

[3] Applications and instructions may be obtained from the appropriate Indian Health Service Area or Program Office.

sional education to eligible applicants taking into consideration:

(1) Academic performance;

(2) Work experience;

(3) Faculty recommendations;

(4) Stated reasons for asking for the scholarship; and

(5) The relative needs of the Service and Indian health organizations for persons in specific health professions.

§ 36.323 Scholarship and tuition.

(a) Scholarship grant awards under this subdivision shall consist of:

(1) A stipend in an amount not in excess of one half the basic pay and allowances of a commissioned officer in the Public Health Service, without dependents, on active duty in pay grade 0-1 with less than two years of service; and

(2) An amount determined by the Secretary for transportation, tuition, fees, books, laboratory expenses and other necessary educational expenses.

(b) The portion of the scholarship for the costs of tuition and fees as indicated in the grant award will be paid directly to the school upon receipt of an invoice from the school. The stipend and remainder of the scholarship grant award will be paid monthly to the grantee under the conditions specified in the grant award.

§ 36.324 Publication of a list of recipients.

The Secretary, acting through the Service, will publish annually in the FEDERAL REGISTER a list of receipients of scholarship grants under this subdivision, including the name of each recipient, tribal affiliation and school.

SUBDIVISION J-4—INDIAN HEALTH SCHOLARSHIP PROGRAM

§ 36.330 Indian health scholarships.

Indian Health Scholarships will be awarded by the Secretary pursuant to section 225(1)(2) of the Public Health Service Act in accordance with regulations set out in 42 CFR Part 62 except as set out in this subdivision for the purpose of providing scholarships to Indian and other students at health professions schools in order to obtain health professionals to serve Indians.

§ 36.331 Eligibility.

In lieu of an agreement to serve under § 62.3(d) of 42 CFR, an applicant must agree to serve as provided in § 36.-333 of this subdivision.

§ 36.332 Selection.

(a) The Secretary, acting through the Service, shall determine the individuals who receive Indian Health Scholarships.

(b) Priority shall be given to applicants who are Indians.

§ 36.333 Service obligation.

The service obligation provided in § 62.7 of 42 CFR shall be met by the receipient of an Indian Health Scholarship by service in:

(a) The Indian Health Service,

(b) An urban Indian organization assisted under Subdivision J-6.

(c) In private practice of his or her profession if, the practice (1) Is situated in a physician or other health professional shortage area as determined under 42 CFR 62.7 and (2) addresses the health care needs of a substantial number of Indians as determined by the Secretary in accordance with guidelines of the Service.

§ 36.334 Distribution of scholarships.

The Secretary, acting through the Service, shall determine the distribution of Indian Health Scholarships among the health professions based upon the relative needs of Indians for additional service in specific health professions. In making that determination the needs of the Service will be given priority consideration. The following factors will also be considered:

(a) The professional goals of recipients of scholarships under section 103 of the Indian Health Care Improvement Act;

(b) The professional areas of study of Indian applicants.

SUBDIVISION J-5.—CONTINUING EDUCATION ALLOWANCES

§ 36.340 Provision of continuing education allowances.

In order to encourage physicians, dentists and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people reside the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service in order to enable them to leave their duty stations for not to exceed 480 hours of professional consultation and refresher training courses in any one year.

SUBDIVISION J-6.—CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

§ 36.350 Contracts with Urban Indian organizations.

(a) The Secretary, acting through the Service, to the extent that funds are available for the purpose, shall contract with urban Indian organizations selected under section 36.351 of this subdivision to carry out the following activities in the urban centers where such organizations are situated:

(1) Determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) Identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) Assist such resources in providing service to such urban Indians;

(4) Assist such urban Indians in becoming familiar with and utilizing such resources;

(5) Provide basic health education to such urban Indians;

(6) Establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) Identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) Make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) Provide or contract for health care services to urban Indians where local health delivery resources are not available, not accessible, or not acceptable to the urban Indians to be served.

(b) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 as amended (The Miller Act, 40 U.S.C. 270a et seq. which is concerned with bonding requirements).

(c) Payments under contracts may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of Title V of the Act.

(d) Nowithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this subdivision as necessary to carry out the purposes of Title V of this Act: Provided, however, that whenever an urban Indian organization requests retrocession of the Secretary for any such contract, retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(e) In connection with any contract made pursuant to this subdivision, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities by the Federal Government with his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

§ 36.351 Application and selection.

(a) Proposals for contracts under this subdivision shall be submitted in such form and manner and at such time as the Secretary acting through the Service may prescribe.

(b) The Secretary, acting through the Service shall select urban Indian organizations with which to contract this subdivision after consideration of the following factors:

(1) The extent of the unmet health care needs of the urban Indians in the urban center involved in terms of disease incidence and prevalence, life expectancy, infant mortality, dental needs, housing conditions, family income, unemployment statistics etc.

(2) The urban Indian population which is to receive assistance in the following order of priority:

(i) 9,000 or more;
(ii) 4,500 to 9,000;
(iii) 3,000 to 4,500;
(iv) 1,000 to 3,000.

(3) The relative accessibility which the urban Indian population to be served has to health care services in the urban center. Factors to be considered in determining relative accessibility include:

(i) Cultural barriers;
(ii) Discrimination against Indians;
(iii) Inability to pay for health care;
(iv) Lack of facilities which provide free care to indigent persons;
(v) Lack of state or local health programs;
(vi) Technical barriers created by State and local health agencies;
(vii) Availability of transportation to health care services;
(viii) Distance between Indian residences and the nearest health care facility.

(4) The extent to which required activities under section 36.350(a) of this subdivision would duplicate any previous or current public or private health services projects in the urban center funded by another source. Factors to be considered in determining duplication include:

(i) Urban Indian utilization of existing health services funded by other sources;
(ii) Urban Indian utilization of existing health services delivered by an urban Indian organization funded by other sources;
(iii) How near other sources of health services are to facilities of the applicant urban Indian organization.

(5) The appropriateness and likely effectiveness of the activities required in § 36.350(a) of this subdivision in the urban center involved.

(6) The capability of the applicant urban Indian organization to perform satisfactorily the activities required in § 36.350(a) of this subdivision and to contract with the Secretary.

(7) The extent of existing or likely future participation in the activities required in § 36.350(a) of this subdivision by appropriate health and health related Federal, State, local, and other resource agencies.

(8) Whether the city is identified as a Bureau of Indian Affairs relocation site.

(9) Whether the city has an existing urban Indian health clinic.

(10) The applicant organization's record of performance, if any, in regard to any of the activities required in § 36.350 (a) of this subpart.

(11) Letters demonstrating local support for the applicant organization from both the Indian and non-Indian communities in the urban center involved.

§ 36.352 Fair and uniform provision of services.

Contracts with urban Indian organizations under this subdivision shall incorporate the following clause:

The Contractor agrees, consistent with medical need, to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following actions not based upon medical need:

(a) Denying a patient any service or benefit or availability of a facility;

(b) Providing any service or benefit to a patient which is different, or is provided in a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separate treatment in any manner related to the receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service benefit; discriminating against a patient in determining whether the patient satisfies any admission, enrollment, quota, eligibility, membership, or other requirements or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions not based on medical needs.

§ 36.353 Reports and records.

For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to § 36.350(a) (7) and (8) of this subdivision, information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

SUBDIVISION J–7.—LEASES WITH INDIAN TRIBES

§ 36.360 Leases with Indian tribes.

(a) Any land or facilities otherwise authorized to be acquired, constructed, or leased to carry out the purposes of the Act may be leased or subleased from Indian tribes for periods not in excess of twenty years.

(b) Leases entered into pursuant to paragraph (a) shall be subject to the requirements of section 322 of the Economy Act (40 U.S.C. 278a), which limits expenditures for rent and alterations, improvements and repairs on leased buildings.

[FR Doc.77–14647 Filed 5–20–77;8:45 am]

[41 CFR Part 3–4]

NEGOTIATED PROCUREMENT UNDER THE BUY INDIAN ACT

Proposed Rulemaking

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed Rules.

SUMMARY: These proposed rules prescribe Department policy on preferential purchasing from Indians and Indian firms under section 303 of the Indian Health Care Improvement Act, and the negotiating authority of the Buy Indian Act.

DATES: Comments on these proposed rules must be received by July 7, 1977.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A–55 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT:

Robert C. Birch, Indian Health Service, (301–443–1044).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend subpart 3–4.57 of 41 CFR to accord with section 303 of the Indian Health Care Improvement Act, P.L. 94–437 (25 U.S.C. 1633), and for other purposes described below.

PREFERENCE TO INDIANS AND INDIAN FIRMS

Under section 303(a) of the Indian Health Care Improvement Act, the Secretary may use the negotiating authority of the Buy Indian Act (25 U.S.C. 47) to give preference to Indians and Indian firms: (1) In the construction and renovation of Indian Health Service facilities and (2) in the construction of sanitation facilities for Indian homes and communities. The Secretary may give a preference unless he finds, in accordance with regulations and certain criteria specified in section 303(a), that the project to be contracted for will not be satisfactory or cannot be properly completed or maintained under the proposed contract. The proposed regulations would amend 41 CFR Subpart 3–4.57, which governs negotiated procurement under the Buy Indian Act, to accord with section 303 of the Indian Health Care Improvement Act, by:

(1) Adding a new § 3–4.5705 specifying evaluation criteria to be considered in making the above findings, and

(2) Revising the definition of Indian firm in § 3–4.5702–2.

In addition the proposed regulations would include nonprofit firms organized for the benefit of Indians and controlled by Indians in the definition of Indian firm in § 3–4.5702–2. A change is also proposed regarding the degree of Indian ownership of a firm. The present regulation at § 3–4.5703 provides that the degree of Indian ownership or control be 100 percent during the period of a Buy Indian contract unless a deviation from the 100-percent requirement is approved on an individual basis by the appropriate Are Director of the Indian Health Service. However, there is no limitation on the extent of the deviation from the 100-percent requirement that may be approved. The proposed amendment to § 3–4.5703 would restrict approved deviations to not less than 51 percent Indian ownership.

PUBLIC PARTICIPATION

The regulations policies of the Department published August 17, 1976 (41 FR 34811) require that this notice of proposed rulemaking (NPRM) have a reg-

ulations development plan (RDP) prepared prior to its issuance. In compliance with these requirements, a plan was forwarded to the Secretary who authorized the issuance of this NPRM without the use of a Notice of Intent (NOI) which would otherwise be required by such policies because:

1. The Indian Health Care Improvement Act (Pub. L. 94–437), contains a stringent schedule for the publication of these regulations; and

2. There have been, since Pub. L. 94–437 was enacted, over 110 meetings in 47 communities involving IHS staff working with national and regional Indian organizations, Indian leaders, other Indian and Alaska Native people, and other interested parties. This consultation process and active participation has been instrumental in the development of the rules and regulations necessary to implement the Act, and has satisfied both the spirit and intent of the NOI.

A description of the consultation process initiated by the Indian Health Service and applicable to these proposed rules is contained in the preamble to the proposed rules for Indian Health Care Improvement Act Programs published concurrently with these proposed rules.

Written comments concerning the proposed regulations set out below are invited. Written data, views, or arguments relating to the proposed regulations may be presented in writing to the Director, Indian Health Service, Room 5A55, 5600 Fishers Lane, Rockville, Maryland 20857. Commentors are encouraged to reference their comments by section of the proposed regulations although this is not required. All material received will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m. and all material received on or before July 7, 1977, will be considered in the preparation of the final regulation.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 22, 1977.

JAMES F. DICKSON III, M.D.,
Assistant Secretary for Health.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Part 3–4 of Title 41 is amended by amending subpart 3–4.57 as follows:

Subpart 3–4.57—Negotiated Procurement Under the Buy Indian Act

AUTHORITY: Sec. 303 of Pub. L. 94–437 (25 U.S.C. 1633); 25 U.S.C. 47; sec. 702 of Pub. L. 94–437 (25 U.S.C 1672)

1. Section 3–4.5700 is amended to read as follows:

§ 3–4.5700 Scope of subpart.

This subpart sets forth policy on preferential purchasing from Indians under the negotiating authority of the Buy Indian Act. Applicability of this subpart is limited to procurements made by or on behalf of the Indian Health Service, U.S. Public Health Service.

2. At the end of § 3–4.5701 add the following:

§ 3–4.5701 Policy.

* * * Section 303 of the Indian Health Care Improvement Act (P.L. 94–437) calls for the use of the Buy Indian Act in the construction and renovation of facilities pursuant to section 301 of that Act and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302 of that Act.

3. Section 3–4.5702–2 is amended to read as follows:

§ 3–4.5702–2 Indian Firm.

An Indian firm means a sole enterprise, partnership, corporation, or other type of business organization owned and controlled by one or more Indians (including, for the purpose of sections 301 and 302 of Pub. L. 94–437, former or currently federally recognized Indian tribes in the State of New York) or by an Indian firm; or a non-profit firm organized for the benefit of Indians and controlled by Indians.

4. Paragraph (a) of § 3–4.5703 is amended to read as follows:

§ 3–4.5703 Requirements.

(a) *Indian ownership.* The degree of ownership that is called for by § 3–4.5702–2 shall be 100 percent during the period covered by a Buy Indian contract unless a deviation from that 100 percent requirement is approved on an individual basis by the Area or Program Office Director of the Indian Health Service responsible for the area or program with respect to which the Buy Indian contract is to be entered into. Such a deviation, which may be to not less than 51 percent, must be accompanied by an appropriate justification for such a deviation.

* * * * *

5. The following § 3–4.5705 as added to read as follows:

§ 3–4.5705 Evaluation criteria.

(a) A contract may be negotiated with, and preference given to, Indians under the Buy Indian Act only if it is first determined that the project or function to be contracted for is likely to be satisfactorily performed under such a contract and that the project or function is likely to be properly completed or maintained under such a contract.

(b) The determination called for by paragraph (a) to be made prior to the award of a negotiated contract under the Buy Indian Act will be made by the official specified in § 3–4.5704(b). Such determinations are to reflect a consideration of the following criteria:

(1) Whether there is ownership of a business organization, and control of such a business organization or of a non-profit firm, as is called for by § 3–4.5702–2.

(2) Whether the Indian firm has the equipment, buildings and facilities necessary to assure the efficient and orderly performance of the contract or whether it has reasonable access thereto for that purpose.

(3) Whether the Indian firm has established bookkeeping and accounting procedures, adequate to assure the efficient and orderly performance of the contract, including a compliance with labor requirements and a timely compliance with reporting requirements.

(4) Whether the Indian firm has substantive knowledge of the project or function to be contracted for, based either upon satisfactory performance of a similar project under a prior contract or upon demonstrated experience in managing, or being otherwise intimately involved in, a similar project.

(5) Whether the Indian firm has an adequate number of employees, or has reasonably available to it sufficient personnel, who are or will be under a reasonable on-the-job training program adequately trained to satisfactorily perform the contract.

(6) Whether the Indian firm has the experience and financial ability to adequately perform a contract of the proposed scope and magnitude, considering its present and potential commitments to other projects.

6. At the end of § 3–4.5704 add the following new paragraph (c):

§ 3–4.5704 Competition.

* * * * *

(c) Contracts proposed to be entered into by the Indian Health Service should by synopsized and publicized in the Commerce Business Daily (See § 1–1.1003–1) and copies thereof sent to the tribal office of the Indian tribal government directly concerned with the proposed procurement as well as to Indian firms and others having a legitimate interest therein. Such synopses should state that to the extent provided for pursuant to the Buy Indian Act qualified Indian firms will be given preference in the award of such contracts.

[FR Doc.77–14648 Filed 5–20–77; 8:45 am]

Federal Register

MONDAY, MAY 23, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

PROTECTION OF HUMAN SUBJECTS

Use of Psychosurgery in Practice and Research: Report and Recommendations for Public Comment

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PROTECTION OF HUMAN SUBJECTS

Use of Psychosurgery in Practice and Research: Report and Recommendations of National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of report and recommendations for public comment.

SUMMARY: This report recommends the psychosurgery be used only to meet the health needs of individual patients, and then only under strict limitations and controls, with added safeguards where the patient is a prisoner, minor, or in a mental institution.

DATES: Written comments on the Commission's recommendations are requested and should be received on or before July 22, 1977, if they are to receive full consideration.

ADDRESSES: Send comments to: Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. Additional copies of this Report and Recommendations may be obtained from the same address. All comments received will be available for inspection at Room 303, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland, weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT:

D. T. Chalkley, Ph. D., Director, Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014 (301–496–7005).

SUPPLEMENTARY INFORMATION: On July 12, 1974, the National Research Act (Pub. L. 93–348) was signed into law, thereby creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to conduct an investigation and study of the use of psychosurgery in the United States, to determine the appropriateness of such use, and to recommend to the Secretary of Health, Education, and Welfare policies defining any circumstances under which its continued used might be appropriate. The Secretary is required to publish any such recommendation of the Commission in the FEDERAL REGISTER, which he does herewith, and to provide an opportunity for interested persons to submit written comments, views, arguments, and data with respect to these recommendations. Comments should be identified by the number of the recommendation (1–8) and, to the extent feasible, distinguish between application of the recommendations to (a) medical practice and (b) medical research.

The Secretary is further required to consider the Commission's recommendations and any relevant comments or other matter submitted to him and, on or before November 21, 1977, to (1) determine whether the administrative action proposed by such recommendation is appropriate to assure the protection of human subjects of biomedical and behavorial research conducted or sponsored under programs administered by him, and (2) if he determines that such action is not so appropriate, publish in the FEDERAL REGISTER such determination together with an adequate statement of the reasons for his determination. Since the Department has not yet completed its own review of this report, the views set forth in it are not necessarily those of the Department of Health, Education, and Welfare. The Department will be evaluating the report during the comment period.

Dated: May 2, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: May 13, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

THE NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

PSYCHOSURGERY REPORT AND RECOMMENDATIONS

COMMISSIONERS

MARCH 14, 1977.

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INTRODUCTION

In response to widespread public concern, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research was directed to investigate and to recommend policies that should govern the use of psychosurgery. Specifically the Commission's mandate under section 202(c) of the National Research Act (Pub. L. 93–348) requires that:

> The Commission shall conduct an investigation and study of the use of psychosurgery in the United States during the five-year period ending December 31, 1972. The Commission shall determine the appropriateness of its use, evaluate the need for it, and recommend to the Secretary policies defining the circumstances (if any) under which its use may be appropriate. For purposes of this paragraph; the term "psychosurgery" means brain surgery on (1) normal brain tissue of an individual who does not suffer from any physical disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (2) diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure or ameliorate the effects of epilepsy and [sic] electric shock treatments.

To discharge its duties under this section of the mandate, the Commission: (1) Convened a group of scientific consultants; (2) on the basis of the consultants' recommendations, contracted for studies to survey the recent literature on psychosurgerey and to evaluate patients who had undergone psychosurgical operations; (3) held public hearings; (4) supported the National Minority Conference on Human Experimentation, which provided recommendations on the use of psychosurgery; (5) deliberated the issues surrounding the use of psychosurgery, in the light of the views presented to the Commission and the results of the studies performed under contract; and (6) adopted the recommendations that are set forth at the end of this report.

The Commission expanded the statutory definition of psychosurgery by replacing the word "sole" with "primary," so that the definition would read: "Psychosurgery means brain surgery on (1) normal brain tissue * * * or (2) diseased brain tissue of an individual, if the primary object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual." Under this wording, surgery with a dual purpose (e.g., relief of seizures as well as relief of emotional disorders) falls within the definition of psychosurgery if the predominant reason for performing the operation is to affect the behavioral or emotional disturbance.

The Commission also specified, for clarification, that psychosurgery includes the implantation of electrodes, destruction or direct stimulation of brain tissue by any means (e.g., ultra-sound, laser beams), and the direct application of substances to the brain, when the primary purpose of such intervention is to change of control behavior or emotions. Further, the Commission made clear that surgery for the relief of various movement disorders, such as epilepsy and parkinsonism, are not included within the definition of psychosurgery. (The legislative mandate mentioned only epilepsy. In addition, the Commission followed the Congressional exclusion of "electric shock treatments" from the definition of psychosurgery and, thus, from its investigation and report. Finally, with respect to pain, the legislative definition was silent and there is no agreement in the medical or scientific community as to whether brain surgery for relief of pain should or should not be considered psychosurgery. The Commission, on the advice of its scientific and medical consultants, specified that surgery or other invasions of the brain which interrupt the transmission of pain along sensory pathways should not be considered psychosurgery; however, when such procedures are applied to relieve the emotional response to persistent pain, without affecting the transmission of pain, they would fall within the definition of psychosurgery.

The period studied by the Commission was extended from five to ten years (1965–1975), in order to obtain a larger patient population and to permit the evaluation of patients over a longer postoperative period.

Chapters 1, 2, and 3 of this report provide a short history of the use of psychosurgery and the focus of public concern in this area, a description of the issues that have been raised in the literature, and a discussion of various legal approaches that have been taken. The results of the studies performed under contract for the Commission are summarized in Chapter 4. Proceedings and recommendations of the National Minority Conference on Human Experimentation and views presented at the Commission's public hearings on psychosurgery are summarized in Chapter 5. The Commission's recommendations defining the appropriate circumstances for the use of psychosurgical procedures are set forth in Chapter 6. The dissenting opinion of one member of the Commission is set forth in the final chapter. The full text of the survey of current literature on psychosurgery and of the reports of the two teams that evaluated psychosurgical patients under Commission contracts appear in the Appendix to this report.

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CHAPTER 1—BACKGROUND

BRIEF HISTORY OF PSYCHOSURGERY

The earliest account of psychosurgery was published in 1891 by Burckhardt, who had tried to calm very excitable patients by destroying a strip of cerebral cortex. In spite of his belief that some patients improved, the operations were discontinued due to vigorous opposition. The widespread adoption of psychosurgery is generally attributed to the Portuguese neuropsychiatrist, Egas Moniz. In 1935, after hearing a report of the calming effect of frontal lobe ablation on monkeys and chimpanzees, Moniz and a surgical colleague, Almeida Lima, operated on the frontal lobes of psychiatic patients. Moniz' monograph describing the generally favorable results obtained on his first twenty patients encouraged neuropsychiatrists and neurosurgeons around the world to adopt similar procedures. In 1936, Freeman, a neurologist, and Watts, a neurosurgeon, introduced psychosurgery into the United States, and by 1950 they had operated on over 1,000 patients. Freeman later indicated that up to the time of his retirement he had performed or supervised psychosurgical procedures on more than 3,500 patients.

The urgent need for efficient treatment of many psychiatrically disturbed veterans of World War II and optimistic reports of the results of psychosurgery resulted in its wide-scale adoption following the war. It is estimated that 40,000 prefrontal lobotomies were performed in the United States, the majority of them in the decade following 1945. By the late 1950's, reports of undesirable side effects from the operations and the introduction of psychoactive drugs produced a sharp decline in lobotomies, although a few such operations have been performed up to the present. In the 1960's, however, the accumulation of knowledge of the neuroanatomical regions that regulate emotionality and the refinement of surgical techniques encouraged the belief that crippling psychiatric symptoms could be alleviated with a minimum of risk by making small and very localized lesions. The numerous attempts over the last decade to focus psychosurgery on precise targets have generated public concern and legislative responses.

RISE OF PUBLIC CONCERN

Coinciding with the development of refined techniques for psychosurgery, the climate of political unrest in the late 1960's, general fear of behavior control and concern about abuse of minorities provided the background against which Dr. Peter Breggin (a Washington, D.C., psychiatrist) began to publish articles warning about the "new wave of psychosurgery" and the "return of the lobotomy." These appeared in popular as well as scientific publications; two lengthy articles were entered in the "Congressional Record" in February and March 1972.[1] Breggin expressed alarm about the increased incidence of psychosurgery (which, he said, was undertaken without scientific justification or proper evaluation) and about the political implications of suggestions by Mark, Sweet and Ervin that urban riots and other acts of "senseless violence" might be prevented (at least in part) by appropriate diagnostic techniques and surgical intervention. Mark et al. had made such a suggestion in a letter to the "Journal of the American Medical Association" in September 1967, and again in their book, "Violence and the Brain," which appeared in 1970.[2] The movie "Clockwork Orange" and Crichton's novel The Terminal Man (1972) added fuel to the fire, as did reports that three prisoners in California had received psychosurgery,[3] and that the Justice Department was supporting research that might involve further operations on prisoners in California facilities.[4] In February 1973, these issues received wide circulation in an article by B. J. Mason in "Ebony" magazine.

Beginning in the fall of 1972 and throughout 1973, Senator Sam Ervin, Chairman of the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, conducted a lengthy correspondence with officials of the Department of Health, Education, and Welfare and the Law Enforcement Assistance Administration (LEAA) in the Department of Justice, regarding the nature and extent of federal involvement in behavior modification in general and psychosurgery in particular.[5] In February 1974, LEAA terminated its support of research involving the performance of psychosurgery.[6]

In January 1973, Gabe Kaimowitz of Michigan Legal Services intervened on behalf of a mental patient who was to become the first subject in a research project designed to compare the effects of psychosurgery with the effects of hormone treatments in reducing aggression. The research had been funded by the Michigan state legislature, and both a scientific and a human rights review committee at the clinic where the operation would be performed had approved the procedure. In July 1973, a three-judge Michigan court held that an involuntarily confined mental patient cannot give valid consent to participate in an experiment of such a hazardous and irreversible nature.[7]

In September 1973, during the Senate floor debate on the bill which became the National Research Act, Senator Beall offered an amendment which provided for a two-year moratorium on the performance of psychosurgery in facilities that receive federal funds, until the Commission completed a study of the use of psychosurgery during the recent past, as well as a case-by-case study "of a sufficient number of cases (together with followup information thereon) to provide the basis for an objective scientific evaluation" of the results of such operations. During the debate, the moratorium provision was deleted on the grounds that Congress had insufficient information to justify such a measure. The

amendment was further modified in conference to require simply that the Commission study the use of psychosurgery in the United States and recommend to the Secretary, DHEW, the circumstances "if any" under which its use may be appropriate.

The scientific community also became concerned about psychosurgery. In 1973, the National Institute of Mental Health undertook to study the issues surrounding the use of psychosurgery, and the National Institute of Neurological Diseases and Stroke empaneled a multidisciplinary committee to report on biomedical research aspects of brain and aggressive behavior. In August 1973, the American Psychological Association's Division of Physiological and Comparative Psychology held a symposium on the legal, ethical and scientific aspects of psychosurgery. A multidisciplinary conference on the same subject was held in December 1973 by the Boston University Center for Law and Health Sciences. The American Psychiatric Association appointed a task force to determine the extent of psychosurgery in the United States and to study the issues; and the Society for Neurosciences polled its members as a preliminary to drafting a position paper on the subject.

By the time the Commission was created, therefore, much had been written on the scientific, legal and ethical issues surrounding the use of psychosurgery; but relatively little was known about the nature and extent of its use, the kinds of patients receiving operations, or the safety and efficacy of the various procedures.

FOOTNOTES

NOTE.—The following publications contain many of the papers listed below:

"B.U. Symposium": Boston University Center for Law and Health Sciences, Psychosurgery—A Multidisciplinary Symposium," Boston University Law Review, Lexington Books, 1974.

"Individual Rights Report": U.S. Senate, Judiciary Committee, Subcommittee on Constitutional Rights, "Individual Rights and the Federal Role in Behavior Modification," U.S. Government Printing Office, November 1974.

"Health Care Hearings": U.S. Senate Committee on Labor and Public Welfare, Subcommittee on Health, "Quality of Health Care—Human Experimentation," Part 2, February 23, 1973.

[1] Peter Breggin, "Congressional Record," February 24, 1972, p. 5567 and March 30, 1973, p. 11396, reprinted in Health Care Hearings, pp. 437 and 455.

[2] Vernon Mark, William Sweet and Frank Ervin, The Role of Brain Disease in Riots and Urban Violence, "J.A.M.A., Vol 201, No. 11, Sept. 11, 1967; Mark and Ervin, "Violence and the Brain," Harper and Row, New York, 1970 (Chs. 11 and 12 reprinted in Individual Rights Report, p. 596 ff.)

[3] Leroy Aarons, Brain Surgery is Tested on 3 California Convicts, "The Washington Post", February 25, 1972.

[4] See Individual Rights Report, p. 299 ff.

[5] *Ibid.*, pp. 49–70, 299–313.

[6] *Ibid.*, p. 308.

[7] *Kaimowitz* v. *Department of Mental Health*, Civil No. 73–19434–AW Circuit Court for the County of Wayne, State of Michigan, July 10, 1973; reprinted in Individual Rights Report, p. 501 ff.

CHAPTER 2—ISSUES SURROUNDING THE USE OF PSYCHOSURGERY

A central issue surrounding psychosurgery has been the underlying scientific justification. Breggin [8] and Chorover [9] have argued, for example, that the risks of psychosurgery are high, especially because the procedures are irreversible, and that the data regarding the effects of surgical intrusion on the brain are inconclusive and contradictory. They have observed, further, that for the most part the safety and efficacy of psychosurgery have been evaluated and reported by surgeons who lack either the expertise or objectivity to conduct reliable assessments of changes in psychiatric status or of cognitive function. These critics have cited the imprecision of psychiatric diagnosis and assessment as a further handicap in evaluating the effects of psychosurgery. Thus, they have argued, reliable categorization of patients with respect to their illnesses and precise assessment of behavioral changes are not possible. In addition, as Valenstein has observed,[10] most psychosurgery is performed in the context of practice (i.e., without a research protocol or review), and there have been few systematic attempts to measure preoperative status against postoperative gains or losses, or even to have evauations performed by persons who have no vested interest in the outcome. Another criticism voiced by Chorover, Valenstein and others is that surgeons are applying techniques to humans on the basis of selective attention to the results of animal research; i.e., without full knowledge or appreciation of the complexity and implications of the animal data.[11] They have referred, for example, to reports that lesions in the limbic system in animals produce unreliable and unpredictable results, often either increasing aggression or producing marked abnormalities in behavior.[12]

Concerns of a different nature center around the problem of obtaining informed consent. A question that has been raised in this context is whether an individual who is an appropriate candidate for psychosurgery is able to give valid consent to the surgery; and if not, whether potential conflicts of interest should bar third parties from consenting on behalf of another, for it may be the caretaker or society, rather than the patient, who stands to benefit from performance of the surgery.[13] This concern has led to suggestions that psychosurgery not be performed on children, prisoners and patients who are involuntarily confined in institutions.[14]

A related concern is that it may not be acceptable for an individual to consent to permanent alteration of the bodily organ which is generally thought to be the locus of that which we call the "self" or the "mind." Whether or not psychosurgery differs significantly in this regard from other therapies for behavior disorders, however, is an article of debate. Chorover has described psychosurgery as brain surgery performed upon specific cerebral structures in such a way as to effect changes in thought processes, personality characteristics, behavior patterns, and other aspects of subjective experience.[15] Breggin has gone even further, suggesting that such intrusion constitutes "mutilation" of the sort which is generally prohibited in the common law.[16] On the other hand, Neville (a philosopher) has observed that:

> Psychosurgery does not affect the brain as much as do many procedures for treating tumors or aneurysms. It does not affect nearly so many people as does the prescription of psychoactive drugs. It does not affect people as profoundly, at the heart of their character, as does psychoanalysis. Furthermore, in comparison with these other methods of altering behavior, psychosurgery is practiced in no greater ignorance of how and why it works. Yet, it seems far more drastic in its directness, more variable in its possible outcomes, and surely irreversible in the sense that it destroys brain tissue.[17]

In this regard, it has been observed that prolonged drug therapy and electroshock treatments both may have irreversible effects with respect to brain pathology as well as with respect to behavior and cognitive function.[18]

Breggin and Chorover, among others, have voiced deep concerns that psychosurgery will be used (or misused) as a social or poltical tool, applying socially determined definitions of "abnormal" behavior to justify controlling dissidents or subduing individuals whose behavior is disruptive or otherwise bothersome. They charge that psychosurgery has been, or will be, used selectively against blacks, women, other minorities, and person who are institutionalized.[19] On the other hand, Frank Ervin has argued that for purposes of manipulating the behavior of large groups of people, or of individuals over a prolonged period of time, the best technique is clearly biochemical. Drugs, he has said, can be applied surreptitiously and on a broad scale with dependable effects and with relative ease, whereas surgery is difficult to apply either in secret or on a wide scale because it involves elaborate procedures, equipment and personnel.[20] Willard Gaylin, President of the Hastings Institute, testified in the same vein before Senator Kennedy's subcommittee:

> It seems unlikely, if there were some plot to take over the country by a totalitarian, * * * that psychosurgery would be the method of choice. I doubt that they would find the most efficient technique for mass control would be planting electrodes on a population of 200 million, or psychosurgery, when they have access to a limited (sic) national television, and to schools with compulsory education, to psychological inputs and to drugs, all of which afford a more convenient, cheaper, economic mass method of manipulation.
>
> * * * [W]hile I think the problem of psychosurgery is less pressing than other aspects of behavior control, * * * it is a lightning rod issue and it does deserve great attention because it focuses on some problems that transcent itself.[21]

A final issue is the status of psychosurgery as a therapeutic device. While some surgeons, notably Andy, have argued that psychosurgery is accepted therapy for certain behavioral dis-

orders,[22] others, including Heath,[23] have agreed with Brown and the NIMH[24] that psychosurgery should be considered experimental and should be conducted only within the context of research, subject to all the review provisions and procedures for the protection of human subjects which that implies. Judicial and legislative approaches to the resolution of these issues are discussed in the following chapter.

FOOTNOTES

[8] Peter Breggin, Testimony in Health Care Hearings, also in articles reprinted therein.

[9] Stephen Chorover, Psychosurgery: A Neuropsychological Perspective, in B.U. Symposium, p. 15.

[10] Elliot Valenstein, "Brain Control," John Wiley & Sons, New York, 1973, p. 296; see also Valenstein, "The Practice of Psychosurgery: A Survey of the Literature (1971–1976)," submitted to the Commission in June 1976 (included in the Appendix to this report).

[11] See especially Valenstein, "Brain Control," pp. 326–355.

[12] Chorover, in B.U. Symposium, p. 22; National Institute of Neurological Diseases and Stroke, "Report on the Biomedical Research Aspects of Brain and Aggressive Behavior" (hereinafter "NINDS Report"), October 23, 1973, Part I–C: Behavioral Studies, pp. 110–122; Valenstein, "Brain Control," p. 137 ff.

[13] George Annas and Leonard Glantz, Psychosurgery—The Law's Response, in B.U. Symposium, p. 33.

[14] Chorover, in B.U. Symposium, p. 31; Alan A. Stone, M.D., et al., "Task Force Report—Psychosurgery in Massachusetts" (majority report) and proposed regulations, June 1975.

[15] Chorover, in B.U. Symposium, p. 21.

[16] Breggin, in Health Care Hearings, pp. 358–359.

[17] Robert Neville, Pots and Black Kettles: A Philosopher's Perspective on Psychosurgery, in B.U. Symposium, p. 128.

[18] Vernon Mark, Psychosurgery Versus Anti-Psychiatry, in B.U. Symposium, especially pp. 9–10, citing American College of Neuropsychopharmacology—FDA Task Force, Neurological Syndromes Associated with Antipsychotic Drug Use: A Special Report, "Arch. Gen. Psychiatry," Vol. 28, 1973, p. 463. See also report to the Commission by Teuber, *et al.*, "The Effects of Cingulotomy in Man," June 1976, pp. 8, 10–11, 75–76 (included in the Appendix to this report).

[19] See especially Breggin, in Health Care Hearings, p. 438; Chorover, in B.U. Symposium, p. 29; and Neville, in B.U. Symposium, p. 135. See also, "Report and Recommendations of the Minority Conference on Human Experimentation," pp. 21–22.

[20] Frank Ervin, Biological Intervention Technologies and Social Control, "American Behavioral Scientist," Vol. 18, No. 5, May/June 1975, p. 627.

[21] Willard Gaylin, in Health Care Hearings, p. 374.

[22] Orlando J. Andy, in Health Care Hearings, p. 350.

[23] Robert G. Heath, in Health Care Hearings, p. 365.

[24] Bertram S. Brown, in Health Care Hearings, p. 342; National Institute of Mental Health, "Psychosurgery—Perspective on a Current Issue," 1973, p. 8.

CHAPTER 3—LEGAL CONSIDERATIONS

Oregon and California have enacted legislation providing for the regulation of psychosurgery, and courts in Michigan and California have explored a number of informed consent and constitutional issues raised by certain regulatory requirements and by the performance of psychosurgery under certain conditions. Chief among these issues are the constitutionality of mandatory review boards and the validity of consent given by the involuntarily confined or their proxies.

LEGISLATION

In 1973 Oregon enacted the first comprehensive legislation for the regulation of psychosurgery.[25] The Oregon statute provides that psychosurgery may be performed only if a Psychosurgery Review Board ("Review Board") has approved the performance of the operation on the individual patient. The Review Board is composed of nine members appointed by the governor from specified medical, psychological, neuroscientific and lay backgrounds.[26]

A physician seeking to perform psychosuregery must first file a petition with the Review Board stating that the patient or legal guardian, if any, has consented and that the proposed treatment has "legitimate clinical value" and is "needed" by the patient. The Review Board is composed of nine members hearing," giving notice to the concerned parties, to determine whether the patient or legal guardian has given and continues to give a "voluntary and informed" consent. If the patient is believed to lack the capacity for voluntary and informed consent, and there is no legal guardian, the Review Board must request that one be appointed. The patient and guardian must be notified of their respective right to legal representation at the consent hearing. Indigent persons are entitled to appointed counsel upon request.

If the Review Board finds that adequate consent has been given, it must then determine whether the proposed operation has clinical merit and is an "appropriate" therapy for the specific patient. Several requirements must be met before an operation may be deemed appropriate:

(1) All conventional therapies must have been attempted;

(2) Criteria for selection of the patient must have been met;

(3) The operation must offer hope of saving life, reestablishing health or alleviating suffering; and

(4) All other viable alternative methods of treatment must have been tried and have failed to produce satisfactory results.

The Review Board may conduct site visits or consultations with experts in the field during the course of its deliberations. The Review Board itself may undertake a specific diagnostic evaluation to aid in its determination. If the operation is permitted, a written report of the outcome must be transmitted to the Review Board.

In 1974 California enacted two somewhat differing approaches to the regulation of psychosurgery. The first is legislation covering the availability of therapies to have involuntarily confined pursuant to the penal code, wherever institutionalized,[27] and the second legislation regulates the performance of psychosurgery upon all other persons, whether institutionalized or not.[28] The latter legislation has been replaced by a substantially similar 1976 act (to become effective in 1977) [29] in response to a court decision discussed below.

The preambles to the penal legislation and the 1976 act state their intent to protect the constitutional rights of privacy and freedom from enforced interference with thought processes and states of mind through the use of "organic" therapies.[30] The principal distinction between the California and Oregon legislation is that California does not recognize proxy or guardian consent to psychosurgery; rather, the performance of psychosurgery upon individuals who lack the capacity for informed consent as defined in the California statutes is prohibted.[31] This prohibition extends to minors under the age of 18 years.[32]

Both California acts recognize that a person under guardianship, having been adjudicated legally incompetent as a general matter, may nevertheless retain the specific capacity for informed consent to psychosurgery. Conversely, an otherwise legally competent patient may lack such capacity and would therefore be ineligible for psychosurgery. The two acts also explicitly reject the notion that a person lacks the capacity for informed consent solely as a consequence of being diagnosed as "mentally ill, disordered, abnormal or mentally defective."

The distinctive feature of the California penal legislation is a provision for mandatory judicial review. The warden or superintendent of the confining institution must petition a court for an order authorizing psychosurgery, specifying what "mental illness, disorder, abnormality, or defect justifies" the psychosurgery. The court must appoint both an independent medical expert and a public defender for the indigent. The court must first determine whether the person has the capacity for informed consent and has manifested that capacity in the process of consenting to psychosurgery. If the court so finds, it then must review the merits of the proposed operation. To authorize psychosurgery, the court must find that the operation would be "beneficial"; that there is a "compelling interest justifying" the operation; that there are "no less onerous alternatives"; and that the operation "is in accordance with sound medical-psychiatric practice."

The 1976 California act does not require judicial review of proposed psychosurgery on persons outside of the criminal justice system. It relies instead upon a committee's review of both the patient's consent and the merits of the operation. The California legislation differs from the Oregon approach in that the review committee is decentralized and composed only of physicians. A committee of three physicians, one appointed by the facility where the operation is to take place and two appointed by the local mental health director, must include two psychiatrists or neurosurgeons who are board-certified or eligible. Because the committee is composed only of physicians, its proceedings are clearly covered

by the physician/patient privilege. After personally examining the patient and agreeing that the patient has the capacity for informed consent, the committee must also agree with the attending physician that "all other appropriate treatment modalities have been exhausted," and that the operation "is definitely indicated and is the least drastic alternative available" for treatment at the time. There is also a "cooling-off" period; no psychosurgery may be performed for at least 72 hours after the patients written consent.

CASE LAW

Shortly after the enactment of the Oregon legislation, a well-publicized case involving psychosurgery was decided by a Michigan state court in "Kaimowitz v. Department of Mental Health." [32] "Kaimowitz" involved an involuntarily detained adult mental patient who was confined as a criminal sexual psychopath. The patient and his parents had all signed consent forms for his participation in a study of the effects of amygdalotomy on aggression; but the court held that there could be no legally adequate consent to the operation.

The court first reasoned that the combined effects of institutionalization and the hazardous and unknown effects of the proposed amygdalotomy precluded the finding of a factually adequate consent by the patient. The "inherently coercive environment" was said to prevent consent to such an experimental procedure from being "competent" and "voluntary," while the lack of a scientific basis for predicting the outcome was stated to render the consent "unknowledgeable."

Some commentators have construed the opinion to find the factors of institutionalization and unfavorable risk/benefit ratio to be separate and independent reasons for invalidating the consent.[33] However, the court noted that its holding did not prevent involuntarily confined patients from giving adequate consent to neurological procedures or even to amygdalotomy should it become an accepted, nonexperimental procedure. The court stated that its conclusion was based upon the expert opinion presented during the 1973 trial on the probable effects of amygdalotomy, that it would flatten emotional responses, lead to impairment of memory, learning and abstract reasoning ability, and cause general apathy, leaving open the possibility of reaching a different result in the future if presented with different evidence on the effects of amygdalotomy.

The "Kaimowitz" court also stated alternative, constitutional reasons for not recognizing the patient's consent. The court reasoned that the First Amendment freedom of speech necessarily protects the freedom to generate ideas.[34] Thus, if the psychosurgery would interfere with memory or affect, it would impair the right "to be free from interference with * * * mental processes." Similarly, the court argued that the constitutional right of privacy protects the privacy of the mind as much as it does the well-established privacy of the marital bed.[35] The court then concluded that these constitutional protections prevented the state from accepting the patient's consent to the proposed psychosurgery.

With respect to the consent of the parents, "Kaimowitz" refused to acknowledge third-party consent on the unelaborated ground that a guardian may not consent to psychosurgery to which the patient may not consent.

The informed consent and constitutional rulings of "Kaimowitz" have not been universally accepted. "Kaimowitz'" argument that in voluntarily detained persons do not have the capacity for informed consent to psychosurgery has been criticized by commentators.[37] Moreover, the California penal legislation, enacted after the "Kaimowitz" decision, rejected the theory that involuntary confinement by itself precluded capacity for consent to risky experimental therapy. The constitutional barriers to valid consent set up by "Kaimowitz" have been greeted even more skeptically. It is not clear whether the court was concluding that (1) an involuntarily confined patient's free speech and privacy rights prevented the patient, regardless of his or her capacity for informed consent, from giving a valid consent, or (2) the constitutional protections required a conclusive presumption that all such patients be considered incompetent to consent. The first interpretation is severely questioned when applied to patients who would otherwise have the capacity for informed consent. Commentators have argued that the Constitution can no more preclude consent to psychosurgery than it can forbid consent to standard psychotherapy. In both cases, the Constitution protects the competent individual's right to choose whether or not to permit interference with his or her mental activity.[38] The second interpretation has also been criticized harshly. A "conclusive or irrebuttable presumption" of incompetency would appear to conflict with First Amendment and privacy cases which require that individuated rulings must be made on claims which involve infringement of fundamental rights.[39]

A recent California appellate case, *Aden* v. *Younger*,[40] has implicitly rejected the "Kaimowitz" constitutional arguments. The court was reviewing the 1974 legislation regulating psychosurgery on individuals outside the criminal justice system (see above); the legislation also had provisions concerning electroconvulsive therapy (ECT). The legislation was challenged as an unconstitutional infringement of First Amendment and privacy rights of access to such therapies. The most difficult issues faced by the court were raised by the provision for mandatory approval by a review committee.

The "Aden" court accepted the premise that patients' freedom of thought "intimately touched upon by any regulation of procedures affecting thought and feelings", is protected by the First Amendment and the constitutional right of privacy.[41] Because a requirement for review committee approval may result in the denial of treatment to some patients who both need and desire it, their freedom of thought would remain impaired. Thus the provision for committee review must be justified by a "compelling state interest," as do all state regulations which impair fundamental constitutional rights. It should be noted that the First Amendment and privacy issues are not dependent upon finding psychosurgery (or ECT) to have a direct effect upon high order cognitive processes; [42] rather, psychosurgery is likely to implicate these constitutional protections because the primary purpose of the surgery, by definition, is to control or affect the motions of an individual.

In determining whether there are compelling state interests to uphold the mandatory review committee provisions, the court distinguished between review of the consent and review of the substantive merits of the therapy, and also between treatment of involuntary detained patients and of all others.

With respect to committee review of consent, the state interest in protecting the right to refuse treatment was found clearly to justify a review procedure for ensuring the competency and voluntariness of a patient's consent. Committee review of a mental patient's competence was reasoned to be constitutional because there is reason to suspect incompetence, whether or not the patient is involuntarily detained.

In analyzing the requirement of substantive review of psychosurgery, the court recognized that the legislation was designed to protect individual autonomy.[43] Substantive committee review was then upheld as a means of ensuring the wisdom of the involuntarily detained patient's consent. Thus, the state's compelling interest in preventing involuntary administration of psychosurgery could be implemented by adding a protective layer of administrative review, rather than by categorically rejecting the consent of all involuntarily detained patients, as did "Kaimowitz".

With respect to substantive committee review for patients who are not involuntarily detained and are found competent to consent, the "Aden" court distinguished between psychosurgery and ECT. The court found psychosurgery to be experimental, and more hazardous and intrusive than ECT. The more intrusive a treatment, the stronger the state's interest in its regulation becomes. Thus, the court concluded that the compelling state interest in preventing unnecessary administration of experimental and intrusive treatment justified regulating psychosurgery as a "treatment of last resort," which must be approved by a committee even when the adequacy of the patient's consent has been confirmed.

By contrast, ECT was described as nonexperimental and relatively less intrusive. The court therefore concluded that mandatory committee review of the merits of proposed ECT upon competent patients was an unconstitutional in-

fringement of their right of privacy. Thus, "Aden" apparently left open, as did "Kaimowitz," the possibility that validation of phychosurgical techniques would warrant a different approach to its regulation.

Aside from "Kaimowitz," which refused to recognize proxy consent to amygdalotomy, there have been no cases that have decided the difficult issues raised by third-party consent to psychosurgery.[45] A complete prohibition of psychosurgery upon patients lacking the capacity for consent, however, may not be a permissible approach. "Aden," for example, found a constitutional issue in legislation which may deny patients access to psychosurgery.[46] Although that court found a compelling interest in support of a ban on proxy consent in order to protect the incompetent patient, a flat prohibition may become less compelling if psychosurgical procedures become validated as safe and effective.

Conclusion

The "Kaimowitz" approach might not prevail today. With new data indicating that certain physcosurgical procedures are less hazardous than previously thought and potentially of significant therapeutic value, the Oregon model (requiring committee review of both consent and the merits of the therapy, as well as a reporting system recognizing proxy consent, and permitting psychosurgery on involuntarily detained patients) should be secure from constitutional or informed consent doctrine challenges.

Footnotes

[25] 35 Ore. Rev. Stat. § 426.700 et seq.

[26] 35 Ore. Rev. Stat. § 426.750–755.

[27] Cal. Penal Code § 2670 et seq. (West Supp. 1976).

[28] Cal. Welfare & Institutions Code § 5325 et seq. (West Supp. 1976).

[29] A.B. No. 1032, amending ibid., and adding § 5326.6.

[30] See *Stanley* v. *Georgia*, 394 U.S. 557 (1968); see generally Michael H. Shapiro, Legislating the Control of Behavior Control: Autonomy and the Coercive Use of Organic Therapies, "S. Cal. L. Rev.," Vol. 47, 1974, p. 237. Cf. *Mackey* v. *Procunier*, 477 F. 2d 877 (9th Cir. 1973).

[31] See also Ohio Rev. Code §§ 5122.271 (A) (7), (B). (Psychosurgery may not be performed upon patients of a hospital for the mentally ill who lack the capacity for informed consent.)

[32] Tennessee has also enacted a statute prohibiting all psychosurgical procedures upon minors. Ch. 489, §§ 1f, 2 (1976) Tenn. Pub. Acts.

[33] *Kaimowitz* v. *Department of Mental Health*, Civil No. 73–19434–AW, Circuit Court for the County of Wayne, State of Michigan, July 10, 1973; reprinted in Individual Rights Report, p. 510 ff.

[34] George Annas and Leonard Glantz, Psychosurgery—The Law's Response, in B.U. Symposium, pp. 46–47.

[35] See note 6 supra.

[36] See generally Roy G. Spece, Jr., Conditioning and Other Technologies Use to "Treat?" "Rehabilitate," "Demolish?" Prisoners and Mental Patients, "S. Cal. L. Rev.," Vol. 45, 1972, p. 616.

[37] E.g., Jeffrie Murphy, Total Institutions and the Possibility of Consent to Organic Therapies, "Human Rights," Vol. 5, 1975, p. 25.

[38] See, e.g., John R. Mason, *Kaimowitz* v. *Department of Mental Health:* A Right to Be Free from Experimental Psychosurgery?, in B.U. Symposium, pp. 113–117.

[39] Michael H. Shapiro, Therapeutic Justifications for Interventions into Mentation and Behavior, "Duquesne L. Rev.", Vol. 13, 1975, pp. 673, 738–45.

[40] 57 Cal. App. 3d 662 (1976).

[41] Ibid. at 678–85.

[42] It is an open question whether, for example, psychosurgery to ameliorate severe depression has an effect upon abstract thinking. Compare David L. Braff & Aaron T. Beck, Thinking Disorder in Depression, "Arch. Gen. Psychiatry", Vol. 31, 1974, p. 456, with Nancy C. Andreasen, Do Depressed Patients Show Thought Disorder?, "J. Nervous & Mental Disease", Vol. 163, 1976, p. 186.

[43] Contrast with the severe anti-autonomy approach of Alan A. Stone, M.D., et al., "Task Force Report—Psychosurgery in Massachusetts" (Majority report) and proposed regulations, June 1975, §§ 220.15(D), 220.18 (d) (flat ban on psychosurgery on prisoners; guardian consent recognized where non-prisoner patient has been adjudicated legally incompetent, regardless of capacity for informed consent to psychosurgery).

[44] Citing *Roe* v. *Wade*, 410 U.S. 113 (1973); *Doe* v. *Bolton*, 410 U.S. 179 (1973) (abortion decisions).

[45] Two cases currently in litigation are challenging the validity of proxy consent to psychosurgery; one involves a First Amendment challenge to a prefrontal lobotomy performed with the consent of the patient's uncle. "Three Court Tests for Psychosurgery," "Medical World News", Vol. 17, Oct. 18, 1976, p. 27. Cf. Steve Knowles, Beyond the "Cuckoo's Nest": A Proposal for Federal Regulation of Psychosurgery, "Harv. J. Legis.", Vol. 12, 1975, pp. 610, 630–32.

[46] See Shapiro, supra note 6, "S. Cal. L. Rev.", Vol. 47, 1974, pp. 256–57, 324–34.

[47] A centralized reporting system which provided for confidential processing of patients' identities was upheld against constitutional challenge in *Aden* v. *Younger*, 57 Cal. App. 3d at 681.

Chapter 4—Studies Performed for the Commission

The Commission recognized that the existence of a large body of literature relevant to the scientific, legal and ethical issues surrounding the use of psychosurgery obviated the necessity of preparing further papers on these topics. Rather, the need clearly was to obtain data on which to base a response to the issues presented. Information was required regarding the nature and extent of psychosurgery performed in recent years in this country, the characteristics of patients receiving the operations, and the effects of the procedures. In fact, the legislative history of the charge to the Commission regarding psychosurgery indicated that the specific intent was to conduct a systematic examination of patients who had undergone psychosurgery in order to obtain a scientifically valid assessment of outcome.

On June 9, 1975, a group of consultants and Dr. Eliot Stellar, a member of the Commission, met with Commission staff to determine the best way to meet the Commission's need for data.[48] The consultants recommended that the Commission support two studies: First, a literature search (supplemented by personal contacts with surgeons) to attempt to determine the nature and extent of psychosurgery performed in this country in recent years,[49] and second, an objective evaluation of operated patients by a team consisting of a psychologist, a neurologist, a psychiatrist, a neurosurgeon, and a social worker. The examination of patients was proposed notwithstanding the acknowledged limitations of a retrospective study: that there would be no preoperative evaluation of the patients, performed by the same team, against which to measure gains or losses of function clearly attributable to the surgical intervention. Such preoperative data as would exist might be uneven both in quantity and in quality, since the data would be obtainable only through medical records provided by psychiatrists and surgeons directly responsible for the patients' care. Nevertheless, the consultants believed that a retrospective study could provide preliminary answers to some of the most pressing questions regarding the outcome of psychosurgery.

— Practice of Psychosurgery: Summary of the Literature

The Commission contracted with Elliot Valenstein, Professor of Psychology at the University of Michigan, to perform a literature survey to ascertain the nature of psychosurgery performed in recent years in the United States and the purposes for which it was undertaken. This survey was designed to supplement data previously reported in Valenstein's book "Brain Control," which was published in 1973. A library computer search of the English language literature from 1970 to the present yielded approximately 700 articles about psychosurgery or related scientific or ethical issues. Of these articles, 152 were written by individuals having direct contact with either the patients or their medical records and contained information on the results of psychosurgery; 56 additional articles reported on surgery purely for relief of pain or on electrical stimulation of the brain. Of the 152 articles reporting on psychosurgery, 26

[48] Consultants included: David Allen, M.D., Department of Mental Health, Boston; Jesse Barber, M.D., Chief, Department of Neurosurgery, Howard University; Lyle Bivens, Ph. D., Chief, Neuropsychology Section, Behavioral Sciences Research Branch, National Institute of Mental Health; John Donnelly, M.D., Psychiatrist in Chief, Institute of Living, Hartford; Irwin Feinberg, M.D., Chief, Psychiatry Service, Veterans' Administration Hospital, San Francisco; Murray Goldstein, D.O., Chief, Extramural Programs, National Institute of Neurological and Communicative Disorders and Stroke (NINCDS); Warren Huber, M.D., Director, Neurology Service, Veterans Administration; Paul Leaverton, Ph. D., Associate Director for Research, National Center for Health Statistics; Allan Mirsky, Ph. D., Department of Psychiatry, Boston University School of Medicine; Mortimer Mishkin, Ph. D., Laboratory of Neuropsychology, National Institute of Mental Health; Ayub Ommaya, M.D., Acting Chief, Surgical Neurology Branch, NINCDS; Janice Stevens, M.D., Professor of Neurology and Psychiatry, University of Oregon.

[49] It was understood that a survey conducted for the American Psychiatric Association would be completed in time to provide basic data in this area.

referred to operations performed in the United States and 39 referred to operations performed in the United Kingdom.

Valenstein contacted scientists and professional organizations in other countries in order to determine, as best possible, the nature and extent of psychosurgery performed throughout the world. In addition, he incorporated and analyzed the results of two questionnaire surveys conducted by others in an effort to determine with some reliability the incidence and nature of psychosurgical operations performed in this country. One of those surveys had been conducted by Dr. John Donnelly, M.D., for the American Psychiatric Association.

Dr. Donnelly had sent questionnaires to the 1,901 active members of the American Association of Neurological Surgeons and the American Congress of Neurological Surgeons, and had received responses from 1,428 (78 percent). The data indicate that relatively few members had performed psychosurgery in the years under survey, and that these surgeons had, on the average, performed few operations. Specifically, 75 surgeons reported having performed psychosurgery in 1971, while the figures for 1972 and 1973 were 71 and 59, respectively. The total number of reported psychosurgical operations in an average year in this period was 324. By extrapolating from these figures to take account of the neurosurgeons who did not return the questionnaire, one can estimate the number of operations performed annually in the United States to be 414. By comparison, approximately 200–250 such operations are performed annually in the United Kingdom, and approximately 83 in Australia. Based upon population, psychosurgery is performed in the United Kingdom at twice the rate it is in the United States, and in Australia at three times the rate in the United States.

An important aspect of the data compiled by Donnelly and analyzed by Valenstein is that approximately 25 percent of the total number of operations performed in the United States are performed by surgeons doing no more than three operations per year, and many surgeons who perform psychosurgery average only one per year. Valenstein suggests that this raises serious questions about the ability of the surgeons to maintain adequate skill or competence. By contrast, four surgeons were responsible for 48 percent of the procedures reportedly performed in this country in 1973. Further, at most only about 27 percent of the neurosurgeons performing psychosurgery in this country publish their results; thus, a considerable amount of experience with psychosurgery does not become part of the scientific literature.

The published reports on the effects of psychosurgery are generally of limited usefulness. Valenstein evaluated each report and found, for example, that 54 percent of the articles published worldwide contained no information obtained from objective tests. Of the 70 articles (out of 152) which reported the results of any objective tests, 16 referred only to an IQ test. In the United States, 56 percent of the published articles mentioned no objective tests, 11 percent report on only one, 8 percent report on two, and approximately 25 percent report results from three or more. Further, when the reports were analyzed with respect to (1) the independence of the personnel performing the postoperative evaluations from those performing the treatment, (2) the use of standardized tests, (3) the statistical treatment of data, and (4) the duration of postoperative follow-ups, the results are equally disappointing. Using a rating scale[50] from 1 to 6 (in which a rating of 1 represents the best scientific design and use of data, and a rating of 6 represents a report presenting only descriptive information and lacking comparison groups) almost 90 percent of the United States articles received a rating of 4 or higher, and 41 percent received a rating of 6.

Valenstein found apparent general agreement in the literature that the patients most likely to improve following psychosurgery are those with severe disturbances of mood and emotion (e.g., the severely depressed, anxious, and the obsessive-compulsive neurotic). Patients with serious impairments of thought processes are reported to be less likely to improve. Many psychiatrists and surgeons have concluded that psychosurgery is ineffective for schizophrenic patients, although others have reported significant improvement in these patients following surgery. Valenstein suggests that some of the disagreement may be due to a lack of clarity in psychiatric diagnosis, especially with respect to schizophrenia, which has become a catch-all diagnostic category in this country. There is also disagreement in the literature as to whether criminals, psychopaths, sexual offenders, and aggressive individuals lacking clear evidence of brain damage benefit from psychosurgery.

Valenstein reports that with the exception of operations for intractable pain, the majority of psychosurgical operations perfromed in the United States are on patients suffering from fear and anxiety, obsessive-compulsive disorders, and neurotic depression (despite the relative overuse of schizophrenia as a diagnosis).

Valenstein also reports that most patients are referred to neurosurgeons by psychiatrists in private practice whose patients are primarily middle class. Women, he found, comprised 56 percent of the operated patients, a proportion that does not differ significantly from the sex ratio distribution in the diagnostic categories for which psychosurgery is performed. (Valenstein explicitly refrains from discussing possible sex discrimination in the diagnosis of mental illness or as a precipitating factor.) Minorities account for very few of the psychosurgical patients. In fact, based upon correspondence with some of the most active psychosurgeons in the country, Valenstein reports that in a combined total of 600 patients, one was black, two were Oriental Americans, and six were Hispanic Americans. Valenstein was able to identify only 7 operations performed on children since 1970, and he found no specific reports of psychosurgery performed on prisoners except for the three in Vacaville in 1972 (referred to on page 3 of this report). No data are available that would yield reliable information on the proportion of psychosurgical patients who are institutionalized.

[50] Developed by Man and Van Putten.

INDEPENDENT EVALUATIONS OF THE EFFECTS OF PSYCHOSURGERY

The Commission contracted for an evaluation of psychosurgical patients to be conducted by a team of psychologists, psychiatrists, neurologists and social workers. This team, headed by Allan F. Mirsky, Ph. D., and Maressa H. Orzack, Ph. D., neuropsychologists at Boston University, undertook to enlist the cooperation of surgeons with sufficiently large patient populations who would be willing to write their patients to inquire first, whether they would consent to having their medical records examined by the team, and second, whether they would consent to be examined themselves. Cooperating surgeons signed consent forms indicating their understanding that their names would not be revealed by the evaluating team but that because of the kinds of surgery they performed, their identities might nevertheless be clear to persons familiar with the scientific literature. Care was taken to ensure that patients were identified to the team only if they had signed and mailed in the consent forms indicating their willingness to have their records examined and/or to be examined themselves. Each patient who was examined was also asked for permission to interview a family member or close friend; such permission was indicated on a separate consent form. All aspects of the study and all consent forms were reviewed and approved by two Institutional Review Boards, a contract review committee and Commission staff.

The Commission also provided for the acceleration and expansion of a study already under way at the Massachusetts Institute of Technology under the direction of Professor Hans-Lukas Teuber, Ph. D., and Suzanne Corkin, Ph. D., two neuropsychologists, with Thomas Twitchell, M.D., a neurologist. They were examining patients who had undergone cingulotomies for various psychiatric disorders as well as for persistent pain. These cases were all drawn from one surgeon, and because of contacts that had previously been made, Teuber had been able to see a number of patients preoperatively as well as postoperatively while remaining scrupulously independent from the surgeon and from involvement in any decisions that were made regarding the surgery.[51]

In total, therefore, the Commission was able to obtain independent evaluations

[51] Teuber's study was funded in part by the National Institute of Mental Health and had been reviewed and approved by the Institutional Review Board at M.I.T. as well as by various committees at NIMH.

of patients operated upon by four different surgeons. Some of the patients in Teuber's sample were seen both pre- and postoperatively; in Mirsky's study, which was by necessity a retrospective one, controls (matched for age, sex, nature and duration of illness) were compared with the operated patients for performance on various behavioral and cognitive tasks. Teuber tested normal controls on some of his tasks, as well. The results of the two evaluation studies are remarkably compatible both with each other and with the claims regarding safety and efficacy which appear in the scientific literature.

Subjects. Teuber examined 34 adult patients who had undergone bilateral, stereotactic lesions in the anterior cingulate region; 18 were seen both pre- and postoperatively, and 16 were examined only postoperatively. This group included 12 males and 22 females; 4 additional males had undergone the operation but declined to be tested. Of the patients examined, 11 had suffered from persistent pain and depression and 23 had other psychiatric disorders. (Patients referred for surgery because of pain frequently presented a mixed picture of pain and depression or of pain and conversion reactions.) In Mirsky's study, there were 27 adult patients; eight had undergone orbital undercutting, seven had received bilateral cingulate lesions (sometimes in conjunction wtih lesions in the amygdala, and/or the substantia innominata), ten had received prefrontal sonic lesions, and two had undergone anterior prefrontal leucotomies. There were 11 males and 16 females in the operated group, with a preponderance of preoperative diagnoses of depressive or affective illness or of obsessive-compulsive disorders. Mirsky's control group consisted of eight patients (three males, five females). It should be noted that the patients in both studies were all white, predominantly middle-aged, and with illnesses of long standing.

A number of patients in both groups had undergone more than one psychosurgical operation. Of the 34 patients in Teuber's study, five had two cingulotomies, four had three cingulotomies, and one had a cingulotomy in addition to a multitarget operation (performed by another surgeon). Of the 27 patients in Mirsky's study, ten had more than one operation including one patient who underwent three surgical procedures. With one exception (a patient who had a cingulotomy followed by an orbital undercutting), however, patients whose first lesion was in the limbic system received subsequent lesions in the limbic system, and patients with frontal lobe lesions received subsequent lesions in the frontal lobe.

Outcome: Effectiveness of psychosurgery. The effectiveness of psychosurgery in alleviating symptoms or in restoring normal functioning was assessed in both studies by standard psychiatric tests, examination of patients, and interviews with close friends or family members. In Mirsky's study, 14 of the 27 patients had very favorable outcomes, were enthusiastic about the surgery, and would undergo the operation again under similar circumstances. The remainder of the patients had results which ranged from only moderate improvement to worsening of their condition, and their feelings about the surgery were mixed. If the number of those who experienced moderate improvement is added to those who were very much improved, however, the success rate in Mirsky's study would be 21 out of 27 (78 percent), which is compatible with many reports in the literature. In Teuber's group, nine out of the 11 patients whose presenting symptom was persistent pain experienced complete or nearly complete relief, and five out of the seven whose primary symptom was depression experienced full or partial relief. All but two of these patients would recommend the surgery to others, and all expressed great preference for the surgery over electroshock treatments. In the remaining 16 cases (patients diagnosed as obsessive-compulsive or with other psychiatric disorders), the outcome was mixed, but patients' attitudes toward the surgeon were supportive, nonetheless.

There were no significant changes in marital or employment status in Mirsky's group following surgery. In Teuber's group, a total of 18 patients were employed postoperatively compared to 15 preoperatively, but women gained more than men. Seven women were employed preoperatively; 11 were employed postoperatively. (One male, employed preoperatively was unemployed postoperatively.) Teuber reports no significant changes in marital status following surgery.

Outcome: Safety of psychosurgery. The patients in both studies underwent a series of psychological, neurological, and electroencephalographic (EEG) examinations designed to measure functional capacities in a number of areas including intelligence, attention, memory (verbal and nonverbal), visual-spatial abilities, verbal and nonverbal fluency, ability to shift sets in categorization, and motor function. In the battery of tests administered to Mirsky's patients (examined two to nine years postoperatively) the majority of scores yielded no significant differences between operated groups and controls. The exception was in tasks considered to be sensitive to frontal lobe dysfunction.[12] In the Wisconsin Card Sorting Task, the operated patients had more difficulty shifting from one category to another (i.e., they made more perseverative errors) than did unoperated controls. In a vigilence task, the operated group with less favorable outcomes responded to uncritical stimuli more frequently than did either the operated group with more favorable outcomes or the control subjects; but the psychosurgical patients with more favorable outcomes made fewer errors of this sort than did the control patients.

In the group of patients that Teuber examined (four to 18 months postoperatively) there were no losses following surgery as compared with preoperative scores or control subjects, except for an impairment in learning the tactual stylus maze. This deficit, however, generally diminishes with time; thus, additional examinations will be necessary in order to assess the implications of this finding. On I.Q. tests and the Hidden Figures Test, patients tested more than four months after surgery improved over preoperative scores. In general, where significant differences were found, they were related to the electroshock treatments (ECT) which the patients had undergone prior to surgery. Patients who had undergone ECT were inferior both to normal subjects and to patients who had not undergone ECT on the following tasks: Verbal and nonverbal fluency, delayed alternation, tactual maze learning, continuous recognition of verbal and nonverbal material, delayed recall of a complex drawing, recognition of faces and houses, and identification of famous public figures. On some tasks, notably recent memory (both verbal and nonverbal) and remote memory, patients who had undergone more than 50 ECT treatments were severely impaired as compared both to normal subjects and to patients who had undergone fewer than 50 ECT. Teuber emphasizes, however, that these findings do not demonstrate that such deficits are necessarily the result of shock treatments, since the patients' ages, as well as the considerable severity and duration of their illnesses, may well have been contributing factors.

Neither Mirsky nor Teuber found neurological deficits following surgery other than those associated with the patients' underlying illnesses and chemotherapy. Mirsky reports one case and Teuber, two, in which patients with no history of brain injury or convulsive disorder prior to surgery suffered seizures postoperatively. Of these, one had only one seizure, another had three over a period of months following surgery; the third patient requires anticonvulsant medication on a continuing basis to control his seizures. Mirsky also reports some changes in electrophysiological activity (as recorded on EEG's) related to attention and reaction time, which may be attributable to the surgical interventions.[13]

Overall, Mirsky and Teuber report finding no significant psychological or cognitive deficits attributable to psychosurgery in the patients they examined, with the exception of an impairment (in Mirsky's patients) on the Wisconsin Card Sorting task and (in Teuber's patients) in the tactical stylus maze. As Teuber notes, however, the same operations performed by different surgeons, or on other patients, or on a healthy brain might produce different results. Indeed, it is not clear which of several factors contribute principally to the successful outcome; for example, the noteworthy and continuing concern and attentiveness of the surgeons for their patients, and the recipro-

[12] This finding may or may not reflect the circumstance that removal of frontal tissue in many of these patients was more extensive than in the patients studied by Teuber.

[13] It should be noted that the sample on which this finding is based consisted of 15 patients with prefrontal lesions and 5 who had lesions in the limbic system.

cal devotion of the patients to their surgeons, may play a central role in determining the success of the therapy. In the hands of a disinterested surgeon, the result could be less favorable. To the extent that the mechanisms underlying the effects remain unclear, the benefit directly attributable to the surgical intervention will remain conjectural. An additional aspect in evaluating the effects of psychosurgery is clearly to determine the level of functioning in patients who have sustained years of illness and who have undergone extensive trials of electroshock treatment and various chemical therapies. As Teuber emphasizes:

> * * * the operation added its effects not only to those of a persistent illness that preceded it, but to the cumulative impact of the massive earlier treatment efforts, which by themselves seemed to be interfering with certain higher functions, and often to an extent where it appeared futile to expect that the effect of (the surgery) as such might have become discernible, within the welter of other handicaps that already weighed upon the patients as they entered upon this surgical course. (p. 15 of Teuber's report.)

Chapter 5—Minority Conference and Public Hearings

Minority Conference

In order to assure that minority viewpoints would be heard, the Commission contracted with the National Urban Coalition to organize a conference on human experimentation. The conference was held on January 6–8, 1976, at the Sheration Conference Center, Reston, Virginia. Attended by over 200 representatives, it provided a format for presentations of papers and workshop discussions from which a set of recommendations emerged. One section of the Minority Conference on Human Experimentation was devoted to the issues surrounding the use of psychosurgery. Two black neurosurgeons presented papers to a work group which, following further discussion, developed recommendations to be forwarded to the Commission.

Dr. Jesse Barber of Howard University emphasized that psychosurgery does seem to be effective in relieving certain symptoms without serious side effects, and that to the extent that it is a useful therapy, it should be available to blacks and other minorities. In his view, the current opposition to psychosurgery has prevented minorities from receiving such operations from which they might benefit. He suggested that minorities should participate at every level of decision making in order to ensure both that blacks are not inappropriately subjected to psychosurgery and that blacks who might properly be treated are not deprived of its benefits. Dr. Ernest Bates, of the University of California at San Francisco, agreed with Dr. Barber that there is no evidence that blacks or other minorities predominate in any of the groups receiving psychosurgery. He emphasized, also, that care must be taken to assure that such operations do not become the tools of social or political institutions. Both surgeons recommended that psychosurgery be performed as part of a research protocol designed to provide valid information regarding its effects on brain function as well as on the behavioral disorders it is designed to ameliorate. In addition, they recommended that the protocols undergo stringent review review for scientific design as well as to assure appropriate selection of subjects and adequate procedures for informed consent. Both recommended against the use of psychosurgery on prisoners.

The recommendations of the Minority Conference reflected the prevalent concern that psychosurgery might be used for social or political ends, and they included provisions to protect minority individuals from such abuse. They called for psychosurgery to be considered experimental, to be performed only under careful scrutiny of scientific design as well as of selection of subjects, and to be performed in accordance with procedures for ensuring informed consent. They also recommend that accumulated data regarding outcome should go to a central repository. The Conference recommended, in addition, that the committees reviewing and monitoring the research be multidisciplinary and composed of members who are "economically, professionally and emotionally independent from all individuals involved in the patient's care." Minorities should be represented among both the scientific and lay members of such committees, which should have authority to prevent the performance of psychosurgery when they believe that it is not advisable in particular cases. (Patients, however, should be able to appeal their decision to a national commission.) Finally, the Conference recommended that psychosurgery should not be performed on prisoners, persons involuntarily confined in institutions, sexual deviants, political deviants, or social deviants, and that funds for research involving psychosurgery should not be accepted from law enforcement agencies, pharmaceutical companies or other institutions "that do not hold paramount the patient's personal care."

Public Hearing

On June 11, 1976, the Commission held a public hearing on the use of psychosurgery. Announcements were sent to several hundred professional organizations, public interest groups and individuals. All persons who requested to appear were heard; a few preferred to submit written testimony in lieu of an oral presentation. Summaries of both oral and written testimony follow.

John Donnelly, M.D. (representing the Task Force on Psychosurgery of the American Psychiatric Association) reported on a survey conducted for the Task Force which revealed that in the United States, approximately 500 psychosurgical procedures were performed in each of the years 1971, 1972 and 1973. The appropriate population of such surgery, he suggested, is a small number of psychiatric patients who are refractory to nonsurgical interventions and who may be further incapacitated by the administration of psychotropic drugs over a long period of time. Since there is evidence that modern psychosurgical techniques do not produce the personality changes which would outweigh the benefits of the procedure itself, psychiatric patients who are unresponsive to other available treatments have a right to request psychosurgery as a last resort provided adequate safeguards are established. In such cases, even modest improvement represents a substantial benefit. Special mechanisms should be established to ensure that all the rights of involuntarily confined mental patients are protected, including the right to adequate treatment. Dr. Donnelly emphasized that there is no evidence of intentional misuse of psychosurgery for social or political purposes or of disproportionate involvement of minority groups or women. The extent to which violent behavior is a sign of psychiatric illness rather than a manifestation of political or social action remains unknown, but it is a proper subject for further investigation, he said. Since psychosurgery is undertaken as a treatment of last resort, even a modest improvement represents a substantial benefit when compared to the alternative. Dr. Donnelly testified that the position of the American Psychiatric Association is that:

1. Phychosurgery is a treatment of last resort and should be performed only in facilities having a highly qualified team of specialists to conduct pre- and postoperative evaluations. Their data should be available to other professionals.
2. A federally supported national registry of psychosurgical patients should be established under the auspices of a national medical organization.
3. Peer Review Committees should screen potential candidates for psychosurgery, and interdisciplinary consent committees should review the adequacy of patients' consent.
4. For the present, psychosurgery should not be performed on minors or prisoners if, in the case of the latter, the purpose is to alter their criminal behavior.
5. Psychosurgery should be performed on involuntarily confined psychiatric patients only with the approval of a consent committee which is independent of the psychiatric hospital.
6. Patients with recognized psychiatric disorders and a propensity for violent behavior should be evaluated as surgical candidates only in the context of their illness.

Mr. Abdullah Ahmad Bey (representing the North Central Unity Non-Profit Community Corporation, Inc.) expressed his concern about the potential dangers of psychosurgery and the inequities of the health care delivery system in general. He recommended that the Commission scrutinize any medical procedure or research proposal that threatens people's life or dignity, particularly procedures with the potential to control people's lives. The rights of patients to adequate health care should be protected, and informed consent should be given by all participants in medical research. Health care policy should not be con-

trolled by the health care providers; rather, consumers should constitute at least 60 percent of the governing boards of health agencies or delivery systems. The Department of Health, Education, and Welfare should adopt the World Health Organization's definition of health for the "total human being." Federal funding should not be used by health care agencies for unspecified purposes. Candidates for psychosurgery should not be forced to waive their legal right to redress, and legislation should be enacted to protect people from potential abuses of psychosurgery, such as the control and exploitation of racial, ethnic, religious, political, economic or sexual minority groups.

Ayub K. Ommaya, M.D., F.R.C.S. (Acting Chief, Surgical Neurology Branch, National Institute of Neurological and Communicative Diseases and Stroke, National Institutes of Health). Speaking for himself, Dr. Ommaya gave a brief history of the use of psychosurgery emphasizing that it continues today because psychiatry has been unsuccessful in treating certain types of mental patients. He suggested that the surgeon's interest in this procedure is twofold: to relieve suffering and to discover the truth about a theory which forms the basis for the therapy. Dr. Ommaya said of the "Kaimowitz" case that the scientific hypothesis underlying the research was very weak, and that many people have misinterpreted what was really at stake by overlooking the fact that the subject involved was being held as a sexual psychopath. He emphasized that for effective patient management, both a compassionate regard for the patient's problems and continuous communication between the parties involved are crucial. Dr. Ommaya proposed that after all nonsurgical therapies have been given a fair trial, the decision regard psychosurgery should be made by the patient and his or her physicians, without any interference by the state; and he stressed the importance of preserving the flexibility of medical decision-making. Further, he believes it is difficult, if not impossible, to conduct clinical trials on psychosurgery; however, he recommends that pre- and postoperative evaluations be performed by psychologists, and that physicians be vigilantly critical in evaluating both the decision to operate and the value of a given procedure for relief of a particular patient's problem. Dr. Ommaya added that patients' freedom of choice must be preserved.

Congressman Louis Stokes (Member, House of Representative) explained his bill to prohibit psychosurgery in federally supported health care facilities. The legislation is based upon the following three premises:

1. Psychosurgery has no therapeutic value because the indications for it do not depend upon the presence of identifiable brain pathology; further, he said, there have been no successful psychosurgical operations and many failures. Congressman Stokes cited three instances in which persons reportedly had undergone psychosurgery with poor results.

2. It is impossible to give informed consent to psychosurgery because of the experimental nature of the procedure, as stated in the "Kaimowitz" decision. Further, he said that institutionalization erodes the ability of an involuntarily confined person to render informed consent. Congressman Stokes would carry the constitutional argument in "Kaimowitz" one step further by adding that psychosurgery prevents the patient from obtaining proper redress of grievances and violates his or her First Amendment rights. As a result, the victims of psychosurgery are relegated to the status of subcitizens.

3. Psychosurgery has the potential of becoming a tool for the social and political repression of minority groups, political dissenters and the poor. Congressman Stokes cited a few instances where this allegedly had occurred.

He concluded that in the present context of racial and social mistrust, the practice of psychosurgery is not amenable to effective regulation by either the public or private sector, and therefore must be prohibited.

Richard F. Thompson, Ph.D. and John P. Flynn, M.D. (testifying for the Division of Comparative and Physiological Psychology of the American Psychological Association) stated that:

1. The animal research literature does not provide compelling data or rationale to support the conduct of psychosurgery.

2. The human clinical literature does not provide compelling evidence for the use of psychosurgery as an accepted medical procedure.

3. Psychosurgery should be labled an experimental procedure.

They recommended that psychosurgery should be permitted, but regulated by stringent safeguards and by the supervision of experts in all relevant fields. In addition, a comprehensive evaluation of the effects of psychosurgical procedures should be undertaken, since studies in the existing literature generally lack sufficient data to permit critical assessment of the efficacy of procedures. Thus, although it is possible that patients suffering from specific illnesses benefit from psychosurgery, the evidence provided thus far is not convincing.

Kenneth Heilman, M.D. (representing the International Neuropsychological Society, Inc.) posed the following questions:

1. What is the clinician's role in altering behavior? Dr. Heilman suggests that physicians are violating the Hippocratic oath if they use their art for political or social purposes. Psychosurgery should not be performed on prisoners, and criminality should not be considered a sickness. Psychosurgery for the relief of intractable seizures or pain, however, is within the purview of sound medical practice. Dr. Heilman stated that psychosurgey should not be performed on children because they should be given every opportunity to improve by nonsurgical means, and that includes the process of maturation.

2. Can focal brain lesions alter behavior? Dr. Heilman noted that there is evidence that localized brain lesions produce specific cognitive and emotional defects and that to his knowledge there has never been a spontaneous lesion (e.g., stroke, tumor, trauma) that has improved cognitive function. He said that ablative neurosurgery (which removes brain tissue) always produces a defect of behavior; however, proponents of psychosurgery suggest that it may help to reestablish homeostasis at a lower level of organization, in persons with behavioral disorders.

3. Does psychosurgery work? There have been few controlled studies of psychosurgery to date; but with respect to the standard lobotomies, indications are that the physiological, intellectual and emotional complications argue against its therapeutic utility.

4. What should be done in the future? Members of the Society are almost evenly split as to whether or not brain surgery which diminishes the intensity of emotion would be acceptable in some psychiatric cases. Most agree that further research, including basic animal research, is needed and should be supported under the auspices of NIH. Clinicians should participate in the animal research and the animal investigators should collaborate in the human research. This might be achieved by the establishment of interdisciplinary research centers. In any case, psychosurgery should be considered an experimental procedure, and protocols should be reviewed by a human experimentation committee or similar review board.

Charles A. Fager, M.D. (representing the American Association of Neurological Surgeons and the Congress of Neurological Surgeons) indicated that there is an international consensus that psychosurgery should be restricted to small, intracerebral structures for the purpose of ameliorating disabling emotional and neurotic conditions rather than as a treatment for major psychoses. Dr. Fager reviewed recent studies of the safety and efficacy of psychosurgery and stated that based upon the current literature, neurosurgeons and other concerned neuroscientists no longer regard stereotactic psychosurgical procedures as experimental, having concluded that the benefits of these procedures far outweigh the risks. Because the procedures are still controversial, however, the neurosurgical community would cooperate with a national registry for the purpose of accumulating data regarding outcome in order to resolve some of the remaining questions. Surgery for psychiatric disorders should be conducted only at institutions providing adequate committee review of protocols and interdisciplinary study of efficacy. However, the decision to undertake psychosurgery should remain with the physician and the patient, in accordance with the following guidelines endorsed by the International Society of Psychiatric Surgery:

1. Neurological intervention for psychiatric disease should be considered only after all other generally accepted methods of treatment have failed.

2. Such surgery should be performed only for the relief of suffering and in an attempt

to restore a disabled individual to effective functioning in society—never for social or political purposes.

3. There should be a prior history of being able to function effectively and of subsequent continuous disability which has proved refractory to nonsurgical treatment.

4. The decision to employ neurosurgery for a patient with psychiatric disease should be made by the psychiatrist and neurosurgeon after consultation and acceptance by a small group of persons with the appropriate experience, insight and humane concerns.

5. Both the patient and next of kin must agree to the surgery after they have been fully informed of the risks and possible benefits.

Robert W. Doty, Ph.D. (representing the Society for Neuroscience) discussed the results of a recent survey of the Society's membership regarding psychosurgery, in which about a third of the membership responded to the following statements, as follows:

1. Psychosurgery should be made available to certain psychiatric patients if accompanied by proper safeguards and an adequate informed consent mechanism. (Seventy-three percent of the respondents agreed.)

2. Psychosurgery should never be used to solve social problems except when certain recognized incapacitating mental disorders are present. (Eighty-nine percent of the respondents agreed.)

3. More research is required to understand, improve or eliminate the need for psychosurgical procedures in conjunction with appropritae safeguards. Research should be conducted only in settings which permit careful evaluation of the results by multidisciplinary teams of specialists both pre- and postoperatively. (Eighty-two percent of the respondents agreed.)

4. An interdisciplinary commission should be established to promulgate guidelines for selecting and evaluating patients, for certifying that there is a recognized incapacitating functional disorder, for determining that psychosurgery is an appropriate last resort, for obtaining informed consent, and for following up and keeping records on the patients. (Seventy-six percent of the re-respondents agreed.)

In general, the Society for Neuroscience urges that psychosurgery be made available as a procedure of last resort for the desparately afflicted patient, but only in a context where careful evaluation is possible over a long period of time. Dr. Doty noted that while animal research in this area is helpful, the therapeutic outcome of psychosurgery can be assessed only with human patients. Requirements for informed consent for psychosurgery should not be so stringent as to be obstructive, but all of the potential risks and benefits must be carefully weighed. If some prisoners, particularly violent offenders, have a recognized mental disorder which may be properly treated by psychosurgery, they should not be denied access to this treatment. The belief of some groups that psychosurgery will be used to suppress political dissent, said Dr. Doty, is unfounded. He concluded that there is no substitute for the compassionate regard physicians feel for the welfare of their patients.

Gabe Kaimowitz, Esq. (Michigan Legal Services) stated that in his opinion the Commission has insufficient data on which to base any valid conclusions regarding the acceptability of psychosurgery to control, modify or alter human behavior. He feared that surgeons would not reveal their experiments with psychosurgery until they were successful; alternatively, they would hide them under the guise of treatment. Further, if psychosurgery is permitted for the amelioration of pain or relief of epilepsy, these labels will be distorted to apply to studies on the experimental application of psychosurgery for the treatment of behavioral problems. Mr. Kaimowitz urged the Commission not to make any recommendations regarding psychosurgery on the grounds that it was in no position to do so.

WRITTEN TESTIMONY SUBMITTED IN LIEU OF PERSONAL PRESENTATION

Robert J. Grimm, M.D. (Assistant Director of Neurology, Good Samaritan Hospital and Medical Center, Portland, Oregon) believes that the new stereotactic techniques together with improved knowledge of brain function, better pre- and post-operative evaluations, and procedural reviews for protecting patient's rights now make it scientifically and legally possible to conduct psychosurgical programs for properly selected, otherwise hopeless cases. He suggested that composite experience, if assembled, would support the proposition that technical improvements have resulted in safe psychosurgery. There are only a few institutions in the United States with the facilities and expertise, however, to demonstrate the validity of such an assertion, and problems may arise in demonstrating clinical improvement independent of placebo effects, or in measuring subtle changes in personality and intellect. Nevertheless, he supported the use of psychosurgery in cases where the only alternative is hopeless consignment to institutional life, where there is good reason to believe psychosurgery would improve the patient's condition, and where problems surrounding informed onsent have been overcome.

Dr. Grimm rejected the argument that interference with the decision of a psychiatrist or neurosurgeon regarding psychosurgery jeopardizes the physician-patient relationship. Rather, he believes that as in other complex medical situations where uncertainty prevails, input from many sources acts to clarify the benefits and risks of the procedure and serves as a source of strength for the responsible physician. Thus, interdisciplinary review of proposed psychosurgery should be welcomed, especially because psychosurgery involves the more general, social concern of behavior control.

Dr. Grimm recommended that psychosurgical practice be limited to those institutions in which competent clinical research evaluations and followup management can be conducted, and that a small number of special research centers be established where complex neurosurgical procedures may be studied with multidisciplinary techniques. In addition, he suggested establishment of a federal insurance program to protect participating physicians from malpractice suits. Dr. Grimm does not personally favor psychosurgery but believes his recommendations provide a rational approach to resolving the issues under debate.

M. Hunter Brown, M.D. (Santa Monica, California) agreed with the working definition of the Commission that manipulations of the central nervous system for intractable pain which alter feeling and mood constitute "psychosurgery." He reported that in 1974, he and Dr. Ballentine reviewed 600 cases of psychosurgery and identified among those only six Hispanic patients and one black patient. The fact that so few patients from minority groups have undergone psychosurgery, he said, is due not to discrimination on the part of surgeons but to the economic realities and public policy. He is particularly concerned that involuntarily confined mental patients are being deprived of possible benefits from psychosurgery due to semantic issues regarding informed consent which could be solved by a neutral ombudsman. In his opinion, stereotactic single target and multitarget treatments have the the highest benefit to risk ratio of any procedure in neurological surgery. In competent hands, these procedures are not experimental but are subject, as in all branches of surgery, to continual refinement and progress.

Ernest A. Bates, M.D. (San Francisco, California) stated that although the theoretical aspects of psychosurgery are poorly understood, such surgery often seems to succeed in alleviating certain mental disorders. Therefore, he does not advocate its prohibition, but rather suggests that all aspects of its use, from patient selection through extensive follow-up studies, be subject to rigid controls. Dr. Bates questioned the use of psychosurgery for the purpose of modifying or controlling violence, since no cerebral focus for agression has been identified. He urged extreme caution about its use in children because their behavior disorders (1) are poorly defined, (2) may result from environmental factors, and (3) may be outgrown. He also expressed concern about accepting consent from patients who may be incapable of anticipating the psychological consequences of the operation. Finally, he stressed that nuerosurgeons should always bear in mind that the brain is unique to every individual, and that their work is irreversible. In Dr. Bates' opinion, it is unethical to perform any psychosurgery without adequate procedures to provide scientific information about its effects on brain function, although tests for psychological deficits in humans need further development. Neurosurgeons alone, he said, are never qualified to select patients for psychosurgery; they need input from other professions. Each case should be reviewed by various review committees to ensure that all alternatives have been exhausted and to define the complex issue of informed consent. In addition, carefully documented behavorial analyses of the results of all operations should be conducted and

made available through the literature. Dr. Bates urged that psychosurgery not be performed on prisoners, and that it be permitted for children, the mentally ill and the retarded only when absolutely necessary, as a last resort and under careful scrutiny. Although there is no evidence that blacks, or other minorities, predominate in any of the studies made thus far on patients receiving psychosurgery, he said, neurosurgeons must always guard against becoming the tools of social and political oppression or of those who seek easy medical solutions to social and political problems.

The National Association for Mental Health, Inc. suggested that until more research has been conducted concerning the cause of various mental and emotional disorders, and until there has been more animal research on brain function, psychosurgery should be performed only:

1. As a treatment of last resort, when the potential benefits outweigh the risks;
2. If the proposed procedure has been reviewed and approved by at least two other neurosurgeons not associated with the surgeon selected to perform the surgery; and
3. If the patient is represented by legal counsel when any final decision is to be made regarding the operation.

The Association defines psychosurgery as a surgical procedure on the structurally intact brain to produce behavioral change, not to correct or eradicate known or definite organic pathology, and suggests that it should still be classified as experimental. The Association believes that only a small number of physicians treating mental disorders engage in psychosurgery, and that most of them take a conservative approach to these procedures. The Association urges sensitivity to the difficult dilemmas posed by psychosurgery with respect to obtaining informed consent, particularly from individuals who are involuntarily confined.

CHAPTER 6—RECOMMENDATIONS

The term "psychosurgery," as used in this report, means (except as stated below); brain surgery, implantation of electrodes, destruction or direct stimulation of brain tissue by any means (e.g., ultra-sound, laser beams), or the direct application of substances to the brain when any of these procedures is performed either (1) on normal brain tissue of a person, for the purpose of changing or controlling the behavior or emotions of such person, or (2) on diseased brain tissue of a person, if the primary purpose of performing the procedure is to control, change, or affect any behavioral or emotional disturbance of such person. Such term does not include (a) electric shock treatments, (b) surgery or other invasions of the brain designed to cure or ameliorate the effects of movement disorders (e.g., epilepsy, parkinsonism), and (c) excision of brain tumors. With respect to relief of pain, surgical or other invasions of the brain which interrupt the transmission of pain along sensory pathways are not within the definition of psychosurgery; however, when such procedures are designed to relieve the emotional response to pain (without affecting the sensation of pain) they fall within the definition of psychosurgery. [A fuller explanation of this definition appears in the preface to this report.]

Recommendation (1) Until the safety and efficacy of any psychosurgical procedure have been demonstrated, such procedure should be performed only at an institution with an institutional review board (IRB) approved by DHEW specifically for reviewing proposed psychosurgery, and only after such IRB has determined that: (A) The surgeon has the competence to perform the procedure; (B) It is appropriate, based upon sufficient assessment of the patient, to perform the procedure on that patient; (C) Adequate pre- and postoperative evaluations will be performed; and (D) The patient has given informed consent. If the IRB has good reason to believe that the patient is incapable of giving informed consent, recommendation (3) shall apply in lieu of recommendation (1) (D). (Adopted unanimously.)

Comment. Some individuals and groups have urged the Commission to recommend a band on psychosurgery—either on grounds that psychosurgery will be used as a political or social tool, or on grounds that psychosurgical procedures are unsafe and ineffective.

The Commission affirms that the use of psychosurgery for any purpose other than to provide treatment to individual patients would be inappropriate and should be prohibited. Accordingly, the Commission is recommending safeguards that should prevent the performance of psychosurgery for purposes of social or institutional control or other such misuse.

With respect to questions of safety and efficacy, two independent teams of scientists and clinicians have conducted pilot studies for the Commission to evaluate the outcomes of four different psychosurgical procedures (cingulotomy, orbital undercutting, multitarget limbic lesions, and prefrontal ultrasonic lesions). Sixty-one adult patients who received operations during the period 1965 to 1975 were examined. Both studies, drawing upon interviews and objective tests, provided evidence that (1) more than half of the patients improved significantly following psychosurgery, although a few were worse and some unchanged, and (2) none of the patients experienced significant neurological or psychological impairment attributable to the surgery. The investigators in one study suggested that the risks of the psychosurgical procedures that were performed may be less than the risks of continuing electroconvulsive treatments over long periods of time.

These studies appear to rebut any presumption that all forms of psychosurgery are unsafe and ineffective. The Commission finds that there is at least tentative evidence that some forms of psychosurgery can be of significant therapeutic value in the treatment of certain disorders or in the relief of certain symptoms. Because of this finding and the belief that the misuse of psychosurgery can be prevented by appropriate safeguards, the Commission has not recommended a ban on psychosurgery.

The safety and efficacy of specific psychosurgical procedures for the treatment of particular disorders, however, have not been demonstrated to the degree that would permit such procedures to be considered "accepted practice." For this reason, and because of the possibility that psychosurgery might be misused, the Commission recommends for the present that psychosurgical procedures be performed only after review (such as generally precedes the conduct of research) by an IRB whose composition and procedures for review of psychosurgery have been approved by the Department of Health, Education, and Welfare. This review should assure a high degree of competence on the part of the surgeon performing the operation, appropriate scientific evaluation, diagnosis and reasons for recommending each patient, and protection of the patient's rights.

Determinations regarding the safety and efficacy of psychosurgical operations in the treatment of specific symptoms and disorders may be made by the national Psychosurgery Advisory Board required under the following recommendations.

IRB Review Procedures. A subcommittee of IRB members or consultants, approved by DHEW and including a neurosurgeon, a psychiatrist, a neurologist and a psychologist, should review technical aspects of the proposed psychosurgery, such as the competence of the operating surgeon to perform the proposed procedure and the plans for pre- and postoperative evaluation of patients. These elements may apply to more than one proposed operation; as such, they may be given a continuing approval by the subcommittee if it is satisfied that the surgeon is competent and the proposed examinations will provide a valid assessment of the outcome of each operation performed.

The subcommittee should also review the diagnostic evaluation of each surgical candidate to assure that the patient is a proper subject for the procedure in question. If the subcommittee finds the evaluation inadequate, it should request further information or examination of the patient. Here it must be emphasized again that the purpose for the performance of a psychosurgical procedure must be to provide appropriate treatment for a patient with a specific psychiatric symptom or disorder. The subcommittee should also be satisfied that appropriate nonsurgical treatments have been given sufficient trials, but this should not be construed to require trials of any therapy beyond the point at which potential benefits become unlikely or are outweighed by the risks of continuing that course of treatment.

The consent of each patient should be reviewed by the IRB as a whole to assure that the patient's rights are protected. This review should focus on procedures or forms employed in the consent process, as well as the circumstances of the actual consent given by each patient. The IRB may require that a third person, unaffiliated with the surgical team or the patient's referring physician, observe or participate in the consent process. The IRB may also require that an examination by approriate consultants or a hearing before the IRB be conducted to determine the patient's ability to give informed consent to psychosurgery. If the IRB believes that the patient is incapable

of giving informed consent, the provisions of Recommendation (3) should apply.

The patient's privacy should be protected in the review proceedings. To this end, the identity of the patient should not be made known to the IRB as a whole or to the subcommittee unless (1) the IRB or subcommittee requests that the patient be present at a hearing or examination, or (2) the patient requests a hearing with the subcommittee or IRB. If such a hearing or examination is held, it should be closed and the members of the subcommittee or IRB should maintain confidentiality, unless the patient waives this privilege. It is the responsibility of the IRB to inform the patient that he or she has the right to a hearing and may demand or waive confidentiality.

Psychosurgery review procedures that have been adopted by statute in certain states should be deemed to satisfy the requirements of this recommendation, provided that such statutory review is comparable to or more stringent than the IRB review required herein.

Recommendation (2) A psychosurgical procedure may be performed on an adult patient who is voluntarily residing in a mental institution, Provided that: (A) A national psychosurgery advisory board has determined that the specific psychosurgical procedure has demonstrable benefit for the treatment of an individual with the psychiatric symptom or disorder of the patient; (B) If the operation is to be performed as part of a research project, the conditions set forth in the Commission's report on research involving the institutionalized mentally infirm are fulfilled; and (C) The conditions of recommendation (1) are fulfilled at the institution where the operation is to be performed. If the IRB has good reason to believe that the patient is incapable of giving informed consent, recommendation (3) shall apply in lieu of recommendation (1) (D). (One Commission member dissented.)

Comment. In Recommendations (2), (3) and (4), the Commission incorporates the requirements of Recommendation (1) and imposes further conditions for the performance of psychosurgery on specific populations of patients whose capacity for self-determination may be limited by institutionalization, mental disability, involuntary confinement or immaturity. The Commission recommends that a psychosurgical procedure may be performed on a patient voluntarily residing in a mental institution and believed to be capable of giving informed consent: *Provided,* The determinations by the IRB required under Recommendation (1) have been made and, in addition, a national Psychosurgery Advisory Board has determined that such procedure has demonstrable benefit in the treatment of the patient's disorder (Recommendation (2)). This condition and some additional requirements are recommended with respect to adult patients who are incapable of giving informed consent or involuntarily confined (Recommendation (3)) and patients who are minors (Recommendation (4)). The Commission also recommends that the conditions set forth in its various reports on research involving specific populations be imposed (where applicable) on the performance of psychosurgery as part of a research project.

It is the Commission's intent that, to the extent possible, a psychosurgical procedure not be used to treat a patient who is institutionalized until the potential benefit of the procedure has been demonstrated in the treatment of patients with the same disorder who are not so situated. The required determination of demonstrable benefit should be made by the Psychosurgery Advisory Board on the basis of (1) treatment of the same disorder in patients who are not institutionalized, (2) treatment of institutionalized patients who underwent the procedure for the same disorder prior to 1977 or outside the United States, or (3) when neither of the above approaches is feasible, persuasive scientific evidence or rationale to support a belief that the procedure is likely to alleviate the same disorder. A determination of demonstrable benefit should require less certainty than would be necessary to support a determination of safety and efficacy.

Because institutionalized persons may be vulnerable as a consequence of their disability or the dependence and depersonalization which often result from confinement, the IRB should scrutinize with care the consent of such persons to determine whether it is adequate. If the IRB has good reason to believe a patient is unable to give informed consent to psychosurgery, the provisions of Recommendation (3) will apply.

Recommendation (3). A psychosurgical procedure should not be performed on an adult patient who: (i) Is a prisoner, (ii) is involuntarily committed to a mental institution, (iii) has a legal guardian of the person, or (iv) is believed by the Institutional Review Board (IRB) to be incapable of giving informed consent to such procedure, unless all of the following conditions are satisfied; (A) A national psychosurgery advisory board has determined that the specific psychosurgical procedure has demonstrable benefit for the treatment of an individual with the psychiatric symptom or disorder of the patient; (B) if the operation is to be performed as part of a research project, the conditions set forth in the Commission's report on research involving prisoners or report on research involving the institutionalized mentally infirm, as applicable, are fulfilled; (C) the conditions of recommendation (1) are fulfilled at the institution where the operation is to be performed, and such institution is separate from any prison or institution where the patient is regularly confined; (D) the patient has given informed consent or, if the patient is believed by the IRB to be incapable of giving informed consent, the patient's guardian of the person has given informed consent and the patient does not object; and (E) a court in which the patient had legal representation has approved the performance of the operation. (One Commission member dissented.)

Comment. Fairness requires that individuals should not be denied access to potentially beneficial therapy simply because they are involuntarily confined or unable to give informed consent. The Commission recognizes, however, that such individuals are vulnerable to coercion and that psychosurgery may be proposed in attempts to modify behavior for social or institutional purposes not coinciding with the patients' own interests or desires. Accordingly, the Commission recommends court review and, in some instances, appointment of a legal guardian in addition to the required determinations by an IRB and the national Psychosurgery Advisory Board. The Commission also recommends that the IRB review and the surgery itself be performed at a facility that is administratively independent of any facility in which the patient is regularly confined.

The process of national review should be initiated at the request of the surgeon wishing to perform the psychosurgery. Following approval by the Psychosurgery Advisory Board, the surgeon may initiate review by the appropriate IRB. Following IRB approval, court review should be initiated by a representative of the patient for whom surgery is proposed.

As indicated in the preceding comment, the determination of demonstrable benefit by the Psychosurgery Advisory Board should be made on the basis of (1) the use of the specific psychosurgical procedure to treat the particular disorder in patients who are not prisoners, institutionalized, under guardianship, or believed incapable of giving informed consent, (2) treatment of such persons who underwent the procedure prior to 1977 or outside the United States, or (3) when neither of the above approaches is feasible, persuasive scientific evidence or rationale to support a belief that the procedure is likely to alleviate the specific disorder.

The IRB and court should ascertain that a prisoner or other person involuntarily confined is never compelled to undergo psychosurgery or unduly influenced to consent to psychosurgery by the promise of probation, parole, reduction of sentence, release or otherwise.

Consent given on behalf of mental patients who are unable to give legally valid consent themselves should be reviewed with an awareness of the potential for conflict of interest inherent in such third-party consent. The consenting guardian should not be affiliated with the institution where the patient is confined or where the psychosurgery is to be performed. Consent given by the legal guardian of a patient who is not institutionalized should also be scrutinized to take into account the potential conflicts of interest that may be associated with the responsibility of providing care for such persons.

If the IRB has good reason to believe that a patient, lacking a legal guardian,

is incapable of giving informed consent for psychosurgery, the IRB should withhold approval of the operation pending authorization by a court and consent of a legal guardian, if one is appointed. If no court accepts jurisdiction, however, the operation should not be performed on such a patient. Similarly, in states that do not accept third-party consent for psychosurgery, a psychosurgical procedure should not be performed on a patient believed by the IRB to be unable to give informed consent for such an operation. In no case should a psychosurgical procedure be performed over the objection of an adult patient, even following adjudication of incompetence and with the consent of a legal guardian.

The Commission recognizes that portions of this recommendation are at variance with the opinion of the Michigan court in *Kaimowitz* v. *Department of Mental Health* (1973). The Commission agrees with the "Kaimowitz" opinion that institutionalization may diminish the ability of prisoners and mental patients to make free choices by removing opportunities for asserting or exercising self-determination. On the other hand, it seems unfair to exclude prisoners or involuntarily confined patients from the opportunity to seek benefit from new therapies on the basis of an unrebuttable presumption of diminished capacity or by prohibiting third-party consent. Therefore, the Commission recommends that such persons be permitted to obtain psychosurgery, subject to the extensive review requirements described above, and the expressed willingness of the patient to undergo the surgery.

With respect to the questions of safety and efficacy, it is clear that the information presented to the Michigan court in 1973 regarding amygdalotomy differs significantly from that which has been presented to the Commission regarding four other psychosurgical procedures. The Commission believes that the information presented on its record justifies its recommendation, for at least some psychosurgical procedures have been shown to present a potential for significant benefit, and the risks of such surgery do not appear to be nearly as great as previously supposed.

Recommendation (4). A psychosurgical procedure should not be performed on a patient under the legal age of consent to medical care unless and until: (A) a national psychosurgery advisory board has determined that there is good reason to believe that the specific psychosurgical procedure will benefit children with the psychiatric symptom or disorder of the patient; (B) the informed consent of both parents (if available) or a guardian has been given and, if the patient is a mature minor, the patient has not objected; (C) the conditions of recommendation (1) are fulfilled; (D) if the operation is to be performed as part of a research project, the conditions stipulated in the Commission's report on research involving children are fulfilled; and (E) a court in which the patient had legal representation has approved the performance of the operation. (Adopted unanimously.)

Comment. The pilot studies conducted for the Commission did not examine the effects of psychosurgery on children, and the Commission has not reviewed data that would support the performance of any such operation on children at this time. However, the Commission does not wish categorically to deny children the possible advantages of a new therapy that might be safer and more effective than long-term use of other therapies. Therefore, as in the previous recommendation, the Commission incorporates the requirements of Recommendation (1) and, in addition, requires that the approval of both a national Psychosurgery Advisory Board and a court of competent jurisdiction be necessary conditions for the performance of psychosurgery on children.

The process of national review should be initiated at the request of the surgeon wishing to perform the psychosurgery. Following approval by the Psychosurgery Advisory Board, the surgeon may initiate review by the appropriate IRB. Following IRB approval, court review should be initiated by a representative of the patient for whom surgery is proposed.

An important prerequisite is a determination by the Psychosurgery Advisory Board that there is sufficient evidence from animal and adult human studies to support a belief that the specific psychosurgical procedure will benefit children with the psychiatric symptom or disorder of the patient, based upon a consideration of the risk of alternative therapies or not conducting any therapy at all.

The Commission intends that the IRB take into consideration the reported feelings that a child may have expressed with respect to psychosurgery, and that such feelings of a "mature minor," i.e., child with a certain capacity for rational judgment, should be controlling. Implementation of this recommendation will require appointment of a third person to participate in the consent process.

Recognizing the limited capacity of children to consent to psychosurgery, the Commission also recommends court review to protect the rights of individual patients. The child should be represented in court by legal counsel.

The Commission emphasizes that the purpose for the performance of psychosurgery must always be to provide appropriate treatment for the specific psychiatric symptom or disorder of the individual patient. The required reviews should assure that social, institutional, or basic research purposes are not accepted as justification for psychosurgery on children.

Recommendation (5). The Secretary, DHEW, should establish a mechanism to compile and assess information regarding the nature, extent and outcomes of psychosurgical procedures performed in this country, the indications for the procedures, and the population on which they are performed. This ongoing mechanism should include stringent provisions to safeguard the privacy of individual patients. (Adopted unanimously.)

Comment. The Commission recognizes that the pilot studies performed for it are not sufficient in themselves to establish the safety and efficacy of specific psychosurgical procedures. Evidence from the extant literature is also insufficient to establish the safety and efficacy of particular procedures in response to particular symptoms or disorders. It is important, therefore, to clarify further the effects of specific surgical interventions in the brain with respect to gains or losses in function and with respect to alleviation of specific symptoms or disorders. In Recommendation (1) the Commission has suggested that wherever psychosurgery is performed, it should be conducted in such a manner that good data will be collected to further the evaluative process. In this Recommendation (5), the Commission further proposes that a mechanism be set up on the national level to collect data on psychosurgery. Such data will assist the national Psychosurgery Advisory Board in making its evaluations regarding the safety and efficacy of specific psychosurgical procedures.

To the extent that it is compatible with the protection of privacy, the Secretary should include in this mechanism a provision for collecting data regarding the presenting symptoms and preoperative diagnosis, past medical and social history of the patients, and outcome. In effect, psychosurgery should become a "reportable operation" in the sense that the Secretary should require that every case be reported, as is now required by states for certain communicable diseases. In addition, when the patients are children, prisoners, or institutionalized individuals, that fact should be reported. The data compiled by the Secretary should be analyzed, and summary reports should be issued and sent to Congress, on a yearly basis. The Commission is concerned, however, that the Secretary give serious attention to two considerations in designing such a mechanism: The desirability of public access to census information, and the preeminent need to safeguard the privacy of individual patients.

Recommendation (6). The Secretary, DHEW, is encouraged to conduct and support studies to evaluate the safety of specific psychosurgical procedures and the efficacy of such procedures in relieving specific psychiatric symptoms and disorders, provided that the psychosurgery is performed in accordance with these recommendations. (One Commission member abstained.)

Comment. The pilot studies performed for the Commission, while very informative, should be supplemented by more extensive studies in order to determine, with a higher degree of certitude, the safety and efficacy of the procedures under evaluation. Additional studies should be undertaken to evaluate other psychosurgical procedures. The importance of such research is sufficient to warrant the support of DHEW. Therefore, not only should the Secretary establish a mechanism for the collection of data, as de-

scribed in Recommendation (5), but the Secretary should support research that would utilize and extend those data to determine whether specific psychosurgical procedures are safe and effective.

Recommendation (7). The Secretary, DHEW, should impose strict sanctions, up to and including the withholding of Federal funds, to assure compliance with regulations implementing these recommendations. (Adopted unanimously.)

Recommendation (8). Congress should take such action as it deems appropriate to assure that (A) psychosurgery is performed under conditions that are in compliance with DHEW regulations implementing these recommendations, and (B) psychosurgery is not conducted or supported by Federal agencies or components thereof unless such agencies or components are primarily concerned with health care or the conduct of biomedical and behavioral research. (Adopted unanimously.)

CHAPTER 7.—DISSENTING STATEMENT OF COMMISSIONER PATRICIA A. KING

It is with much regret that I find it necessary to abstain from Recommendation (6), and dissent from Recommendations (2) and (3) of the Commission's Report on Psychosurgery. The Commission struggled long and hard to reach conclusions with respect to an extremely difficult and perplexing problem. It had to decide wether to recommend a ban on all psychosurgical procedures; and, should a ban be unjustified, to further decide on whom and under what circumstances such procedures could be performed. The result of these lengthy deliberations is, I believe, a basically thoughtful and responsible report.

I agree with the Commission's conclusion that a ban on the performance of all psychosurgical procedures is not an appropriate response to the perplexing problem. As long as there is reasonable promise that some patients will be benefited (and I believe our data, although limited, supports such promise), then some limited psychosurgical procedures should be permitted. The report recognizes that the performance of psychosurgical procedures must be subject to rigid limitations in view of the risks of harm and abuse; I strongly concur with this sentiment. I accept, however, the criticism of some that the Commission's report might be viewed as a more enthusiastic endorsement of psychosurgery than we intended. It was with this criticism in mind that I abstained on Recommendation (6) which states that "The Secretary, DHEW, is *encouraged* to conduct and support studies to evaluate the safety of specific psychosurgical procedures and the efficacy of such procedures in relieving specific psychiatric symptoms and disorders, provided that the psychosurgery is performed in accordance with these recommendations." (Emphasis added.) Perhaps, it would have been wiser to have omitted the Recommendation altogether. Since it is basically hortatory it adds little to the report and is subject to misinterpretation.

My basic disagreement with the Commission's Report however is with its conclusions about what protections should be afforded voluntarily committed patients residing in institutions. In my view, such patients should be accorded the same protections as all institutionalized persons and be required to undergo court review of their cases prior to the performance of psychosurgical procedures. I, therefore, dissented from Recommendation (2) because it omits any requirement of court review, and from Recommendation (3) because it does not include all voluntarily committed persons.

The Commission did not have before it either data which indicated who comprised the group referred to as the voluntarily committed, or data which indicated whether the voluntarily committed differed from the involuntarily committed in any significant manner that would warrant separate consideration. The Commission assumed that involuntarily committed persons were institutionalized through some judicial process and that voluntarily committed persons were institutionalized through "voluntary" admissions processes. It assumed that the distinction referred to above was significant, although it did not have any data to support such an assumption or any data about how the commitment process might differ from state to state. It is conceivable, for example, that as a part of the "plea bargaining" process in our criminal justice system that some persons "agree" to voluntarily commit themselves to mental institutions in exchange for reduced or dropped charges. I do not mean to suggest that this happens, or, if it does, that it occurs in any significant degree. My point is that the Commission did not have before it sufficient data on which to justify distinctions between the two groups of patients.

Some would argue that the method of admission is a significant consideration, because the Commission's restrictions are too burdensome and are an undue infringement on the rights of patients to have access to therapeutic procedures. There is undoubtedly some medit to the suggestion. However, in view of (1) general public concern about psychosurgery (noted in the Report itself), (2) concern about whether an appropriate candidate for psychosurgery is ever able to give valid consent, (3) the limited available data about the safety and efficacy of specific psychosurgical procedures, and (4) the paucity of data before the Commission on commitment procedures, I believe caution was warranted.

The Commission did recognize that some of the voluntarily committed would be incapable of giving valid consent, but it chose to deal with that concern by making the IRB responsible for making the determination about whether a particular patient was so capable. It is questionable in view of the current concerns about psychosurgical procedures whether we should have ever saddled IRBs with such responsibilities. It is outrageous in my opinion to ask them to make that determination with respect to those residing in institutions. The impact of institutionalization alone, as discussed for example in "Kaimowitz," is significant enough to warrant treating those inside institutions different from those outside. Were I a member of an IRB operating under the Commission's recommendations, I would always vote for court review of the IRB determination at least until such time as we know more about the safety and efficacy of specific psychosurgical procedures, and the law regarding informed consent is more settled.

[FR Doc.77-14384 Filed 5-20-77;8:45 am]

Federal Register

MONDAY, MAY 23, 1977

PART IV

DEPARTMENT OF JUSTICE

Bureau of Prisons

■

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comment

DEPARTMENT OF JUSTICE

Bureau of Prisons

[28 CFR Chapter V]

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: This document contains proposed rules relating to the control, custody, care, treatment, and instruction of Federal prison inmates. This document represents the Bureau of Prisons' initial publication of these rules in the FEDERAL REGISTER and is intended to give the public notice and opportunity to comment on all rules in this area, not just on changes from prior policy.

COMMENT DATES: Comments must be received on or before June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Curtis Sitterson, Phone Number 202–724–3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 18 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the FEDERAL REGISTER, as proposed rules, those regulations which generally govern the control, custody, care, treatment, and instruction of inmates in federal correctional institutions administered by the Bureau of Prisons.

The regulations according to which the Bureau of Prisons manages inmates in Federal correctional institutions are presently contained in Policy Statements and Operations Memoranda which have been made available to inmates in each institution's inmate law library and to members of the general public upon request. Most of these regulations have not been published in the Code of Federal Regulations.

While the Bureau of Prisons has frequently received and considered comments from the public relating to Bureau regulations, there has not been a systematic process whereby these comments are solicited and considered before regulations take effect. This publication process will afford interested persons additional notice of Bureau regulations and proposed regulations and will create a formal process for solicitation and consideration of comments.

The Bureau of Prisons does not, however, intend to publish regulations which relate exclusively to the following:

(1) Employment or personnel policies with respect to Bureau of Prisons employees; and

(2) Internal management policies and nonsubstantive interpretations, such as administrative staff manuals, procurement and budget procedures, record keeping and reporting requirements, and instructions issued to implement those regulations which are published.

In this issue of the FEDERAL REGISTER, the Bureau of Prisons has published proposed regulations which relate most directly to the following:

(1) Inmate discipline and special housing units;

(2) Inmate access to legal counsel and reference materials and inmate preparation of legal documents;

(3) Inmate visiting, and correspondence through the mail;

(4) News media contact with inmates and federal penal institutions generally;

(5) Awards, withholdings, and forfeitures of inmates' good time credits; and

(6) Scope of all Bureau of Prisons rules in institutional emergencies.

In future issues of the FEDERAL REGISTER, the Bureau of Prisons will publish (other) regulations which relate to the control, custody, care, treatment, and instruction of inmates. These regulations will include, for example, Administrative Remedy Procedures (Part 542) and Religious Programs (Part 548).

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 665, 320 1st Street NW., Washington, D.C. 20534. Comments received before June 20, 1977, will be considered before final action is taken on these proposals. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 665, 320 1st Street NW., Washington, D.C. 20534. The proposals may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to add a new 28 CFR, Chapter V as follows: Chapter V, Bureau of Prisons, to Title 28 of the Code of Federal Regulations. Chapter V would consist at this time of Parts 500, 501, 523, 540, 541, and 543 as set forth below:

CHAPTER V—BUREAU OF PRISONS, DEPARTMENT OF JUSTICE

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

Part
500 General definitions.
501 Scope of rules.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

523 Computation of sentence.

SUBHAPTER C—INSTITUTIONAL MANAGEMENT

540 Contact with persons in the community.
541 Inmate discipline and special housing units.
543 Legal matter.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 500—GENERAL DEFINITIONS

§ 500.1 Definitions.

(a) The "Warden" means the chief executive officer of a U.S. Penitentiary, Federal Correctional Institution, Medical Center for Federal Prisoners, Federal Prison Camp, Community Treatment Center, Federal Detention Center, Metropolitan Correctional Center, or any federal penal or correctional institution or facility. "Warden" also includes any staff member with authority explicitly delegated by any chief executive officer.

(b) "Staff" means any employee of the Bureau of Prisons.

(c) "Inmate" means any person who is committed to or in the custody of the U.S. Attorney General. "Inmate" also includes any person who is serving a civil contempt sentence in an institution of the BOP or in the custody of the Attorney General.

(d) "Institution" means a U.S. Penitentiary, Federal Correctional Institution, Medical Center for Federal Prisoners, Federal Prison Camp, Community Treatment Center, Federal Detention Center, or Metropolitan Correctional Center.

(e) "Shall" means an obligation is imposed.

(f) "May" means a discretionary right, privilege, or power is conferred.

(g) "May not" means a prohibition is imposed.

(h) "Contraband" means anything that an inmate is not authorized to possess in an institution.

(5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.)

PART 501—SCOPE OF RULES

§ 501.1 Institutional emergencies.

When there is an institutional emergency which the Warden considers a threat to human life or safety, the Warden may suspend the operation of the rules contained in this chaper to the extent he deems necessary to handle the emergency.

(18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.)

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 523—COMPUTATION OF SENTENCE

Subpart A—Good Time

Sec.
523.1 Definitions.
523.2–523.9 [Reserved]

Subpart B—Extra Good Time

523.10 Purpose and scope.
523.11 Procedure.
523.12 Rate of allowance.

Subpart A—Good Time

§ 523.1 Definitions.

(a) Extra good time means a credit to an inmate's sentence as authorized by 18 U.S.C. § 4162, for performing exceptionally meritorious service or performing duties of outstanding importance or employment in a federal prison industry or camp.

§§ 523.2–523.9 [Reserved]

Subpart B—Extra Good Time

§ 523.10 Purpose and scope.

(a) The Bureau of Prisons awards extra good time credit for performing exceptionally meritorious service, or for

performing duties of outstanding importance, or for employment in an industry or camp. An inmate is eligible for only one type of extra good time award at a time; e.g., an inmate earning industrial or camp good time is not eligible for meritorious good time or ongoing meritorious awards under § 523.11 (b); except that a lump sum award as provided in § 523.11(c) may be given in addition to another extra good time award. The Warden and the Institution Discipline Committee may not forfeit or withhold extra good time. The Warden may, however, disapprove or terminate the awarding of extra good time as provided in § 523.11(b)(5).

§ 523.11 Procedure.

(a) The Warden shall award extra good time to an inmate who is employed in a Federal Prison Industry or confined in a camp except as provided in § 523.11 (b)(5). The award begins on the first day of such employment or confinement.

(b) The Warden may award extra good time to an inmate for the performance of exceptionally meritorious service or duties of outstanding importance, subject to the following conditions:

(1) An inmate is not eligible for this award during the first three months following his commitment to an institution.

(2) The Warden may make such an award only upon recommendation by a staff member.

(3) The Warden may approve a retroactive award for activity by an inmate during a period of up to three months. This retroactive award may not be given for any month for which it has been disapproved or terminated.

(4) Once approved, an award continues without the need for formal monthly approval unless the Warden disapproves or terminates the award.

(5) The Warden may disapprove an award for a single month or may terminate the award at any time upon recommendation of a staff member, based upon inadequate work performance or commission of a prohibited act, or other good cause. Such disapproval or termination is effective from the first day of the month in which the action is taken, and no partial monthly allowance is given.

(6) The Warden may not discontinue an extra good time award when an inmate is hospitalized or on furlough unless the inmate's behavior justifies a termination. The Warden may discontinue an extra good time award of an inmate who is on writ or similar court action after one month's absence from the institution; upon return to the institution, the previous award shall be resumed.

(c) The Warden may make, in addition to any ongoing extra good time award, a lump sum meritorious extra good time award to an inmate who performs one of the following:

(1) An act of heroism;

(2) Voluntary acceptance and satisfactory performance of an unusually hazardous assignment;

(3) An act which protects the life of a staff member, inmate, or other person, or the property of the United States,

(4) A suggestion which results in substantial improvement of a program or operation, or which results in a significant saving; or

(5) Other exceptional or outstanding service.

The Warden shall make an award under this subsection for a definite number of days. The Warden may award a lump sum credit of up to thirty days. A recommendation for award in excess of thirty days is referred to the Regional Director for approval. An award under this subsection does not preclude other types of awards such as meritorious pay for the same activity.

§ 523.12 Rate of allowance.

(a) An inmate, who is awarded extra good time, receives a credit of three days extra good time per month for the first 12 months of the award, and five days per month for any subsequent months. The Warden may award extra good time for a fraction of a month except as provided in § 523.11(b)(5); when this results in an award of a fraction of a day, the award is adjusted to the next full day. When there is an interruption of an extra good time award, the earning rate is not affected by the interruption.

(b) For a lump sum award under § 523.11(c), the number of days of the award may not exceed the number arrived at by the following calculation.

The number of months served at the time of the activity which is the basis for the award is multiplied by 3 days a month for the first year of service of the sentence, including jail time, and 5 days a month for any subsequent service of sentence; from this total, the extra good time awards already made are subtracted.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

Subpart A—General

Sec.
540.2 Definition

Subpart B—Correspondence

540.10 Purpose and scope.
540.11 Control and procedures.
540.12 General correspondence.
540.13 Restricted general correspondence.
540.14 Inmate correspondence while in admission and orientation, segregation; and holdover status.
540.15 Correspondence between confined inmates.
540.16 Prisoner's mail box (PMB).
540.17 Incoming special mail.
540.18 Legal correspondence.
540.19 Inmate correspondence with representatives of the news media.
540.20 Exception to notification procedures.

Subpart C—[Reserved]

Subpart D—Inmate Visiting

540.40 Purpose and scope.
540.41 Supervision of visits.
540.42 Visiting facilities.
540.43 Visiting times, numbers of visitors, and frequency of visits.
540.44 Persons who may be authorized to visit an inmate regularly and procedure for approval.
540.45 Special visitors.
540.46 Visits by attorneys.
540.47 Consular visits.
540.48 Visits for inmates in special housing status.
540.49 Penalty for violating visiting regulations.

Subpart E—Contact With News Media

540.60 Purpose and scope.
540.61 Authorizations.
540.62 Institutional visits.
540.63 Personal interviews.
540.64 Press pools.
540.65 Release of information.

AUTHORITY: 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A—General

§ 540.2 Definitions.

(a) "General correspondence" means incoming or outgoing correspondence other than special mail or mail sent through the prisoner's mail box.

(b) "Restricted general correspondence" means general correspondence which is limited to a list of authorized correspondents.

(c) "Open general correspondence" means general correspondence which is not limited to a list of authorized correspondents, except as provided in § 540.15.

(d) "Prisoner's Mail Box" (hereinafter "PMB") is a procedure through which an inmate may mail letters to certain addressees unopened and uninspected.

(e) "PMB mail" means correspondence sent through the PMB to the following: President and Vice President, Attorney General, Solicitor General, Director's Office, Bureau of Prisons, Office of General Counsel and Review, Regional Directors of the Bureau of Prisons, Members of the U.S. Parole Commission, the Pardon Attorney, U.S. Attorneys' Offices, Surgeon General, U.S. Public Health Service, Secretary of the Army, Navy or Air Force, U.S. Courts including U.S. Probation Officers, members of the U.S. Senate and House of Representatives, embassies and consulates, governors, state attorneys general, prosecuting attorneys, directors of state departments of corrections, state parole commissioners, state legislators, state courts, state probation officers, and representatives of the news media.

(f) "Representatives of the news media" means persons whose principal employment is to gather or report news for:

(1) A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of "general circulation" if it circulates among the general public and if it publishes news of a general character of general interest. A key test to determine whether a newspaper qualifies as a "general circulation" newspaper is to determine whether the paper

qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes. It is generally held that for a newspaper to be considered by law a newspaper of general circulation, and so be qualified to publish legal notices, it must contain items of general interest to the public such as news of political, religious, commercial or social affairs;

(2) A news magazine which has a national circulation and is sold by newsstands and by mail subscription to the general public;

(3) A national or international news service; or

(4) A radio or television news program of a station holding a Federal Communications Commission license.

(g) "Special mail" means correspondence sent to an inmate from the following: attorneys, members of Congress, embassies and consulates, U.S. Department of Justice, state attorneys general, prosecuting attorneys, governors, U.S. courts, or state courts.

Subpart B—Correspondence

§ 540.10 Purpose and scope.

The Bureau of Prisons encourages correspondence that is directed to socially useful and rehabilitative goals. The Warden shall establish correspondence procedures for inmates in each institution.

§ 540.11 Control and procedures.

(a) The Warden shall establish and exercise controls to protect inmates, the security, discipline and good order of the institution. The size and complexity of the institution, the degree of sophistication of the inmates confined, and other variables require flexibility in correspondence procedures. All Wardens are authorized to establish open general correspondence regulations. However, if the Warden determines that an entire institution should be placed on restricted general correspondence, he may do so without following the procedures enumerated in § 540.13(c). The Warden shall, however, submit this determination to the Director for review and final approval.

(b) Staff shall inform each inmate in writing upon arrival at an institution of that institution's rules for the handling of inmate mail. This notice includes the following statement:

The staff of each institution of the Bureau of Prisons has the authority to open all mail addressed to you before it is delivered to you. 'Special Mail' (mail from attorneys, U.S. Courts, members of Congress, embassies or consulates, the U.S. Department of Justice, governors, State attorneys general, prosecuting attorneys, state courts) may only be opened in your presence and checked for contraband if the sender adequately identifies himself on the envelope and the envelope is marked 'Special Mail—open only in the presence of the inmate.' Other mail (general correspondence) may be opened and read by the staff.

However, if you do not want your general correspondence opened and read, the Bureau will return it to the sender. *This means that you will not receive such mail.* You may choose whether you want your general correspondence opened, read, and delivered to you, or returned to the sender unopened. Whatever your choice, special mail will be delivered to you, after it is opened in your presence and checked for contraband. You can make your choice by signing Part I *or* Part II.

PART I—GENERAL CORRESPONDENCE TO BE RETURNED TO SENDER

I have read the Notice Regarding Mail. I do not want my general correpsondence opened and read. I understand that this means that my general correspondence will be returned to the sender. I also understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

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(Name) (Reg. No.)

PART II—GENERAL CORRESPONDENCE TO BE OPENED, READ, AND DELIVERED

I have read the Notice Regarding Mail. I wish to have my general correspondence delivered to me. I understand that this means the Bureau staff may open and read my general correspondence. I also understand that special mail will be delivered to me after it is opened in my presence and checked for contraband.

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(Name) (Reg. No.)

(c) Staff shall inform an inmate that letters placed in the U.S. Mail are placed there at the request of the inmate and that he must assume responsibility for the contents of each letter. Correspondence containing threats, extortion; etc. may result in prosecution for violation of the U.S. Postal Regulations. When such material is discovered the inmate may be subject to disciplinary action, the written material may be copied, and all material may be referred to the appropriate law enforcement agency for prosecution.

§ 540.12 General correspondence.

(a) The Bureau of Prisons pays the postage on a reasonable number of letters sent by an inmate. Certified or registered mail is available, but the inmate must pay the cost. (See § 540.13)

(b) The Warden shall establish the number of letter per week sent by an inmate to overseas correspondents for which the institution pays the extra international postage.

(c) The Warden may not limit the number of incoming letters an inmate may receive unless the number received places an unreasonable burden on the institution.

(d) Institution staff shall inspect and read incoming and outgoing general correspondence as frequently as they deem necessary to maintain security, monitor a particular problem confronting an inmate or alert the staff to any matter that may help in evaluating the inmate's progress.

(e) The Warden may reject correspondence sent by or to an inmate if it contains any of the following:

(1) Violation of postal regulations;

(2) Information of escape plots, plans to commit illegal activities or to violate institutional rules; and

(3) Direction of an inmate's business. An inmate, unless he is a pretrial detainee, may not direct a business while confined.

This does not, however prohibit correspondence necessary to enable an inmate to protect property and funds that were legitimately his at the time of commitment. Thus, for example, an inmate may correspond about refinancing a mortgage on his home or sign insurance papers, but he may not operate a mortgage or insurance business while in the institution.

(f) Each inmate shall write correspondence in English, but the Warden shall try to accommodate an inmate who is unable to write in English or whose correspondent is unable to understand English. The criminal sophistication of the inmate and the relationship of the inmate and the correspondent are factors to be considered in deciding if correspondence in a foreign language is permitted.

§ 540.13 Restricted general correspondence.

(a) The Warden may limit to a reasonable number, persons on the approved restricted general correspondence list of an inmate.

(b) The Warden may place an inmate on restricted general correspondence based on misconduct or as a matter of classification. Determining factors include the inmate's:

(1) Involvement in any of the activities listed in § 540.12(e);

(2) Mailing of an excessive number of letters;

(3) Attempting regularly to correspond with persons or businesses where the addressee is known by the inmate only through such sources as advertisements in newspapers, magazines, telephone directories, etc.

(4) Being a security risk;

(5) Threatening a government official;

(6) Having committed an offense involving the mail;

(7) Having participated in major criminal activity of a sophisticated nature; or

(8) Notoriety or being highly publicized.

(c) The Warden shall utilize one of the following procedures before placing an inmate on restricted general correspondence unless the inmate is in admission and orientation or holdover status (see § 540.14) or unless the whole institution is placed on restricted general correspondence:

(1) Where the restriction will be based upon a misconduct report, procedures must be followed in accordance with inmate disciplinary regulations (Part 541 of this chapter).

(2) Where there is no misconduct report, the Warden:

(i) Shall advise the inmate in writing of the reasons he is to be placed on restricted general correspondence;

(ii) Shall give the inmate the opportunity to respond to the classification or change in classification; the inmate has the option to respond orally or to submit written information or both; and

(iii) Shall notify the inmate of his decision and his reasons and shall advise

the inmate of the administrative remedy procedure (Part 542 of this chapter).

(d) When an inmate is placed on restricted general correspondence, the inmate may, except as provided in §§ 540.14 and 540.15—

(1) Correspond with his spouse, mother, father, and children;

(2) Request that other persons also be placed on the approved correspondence list subject to investigation, evaluation and approval by the Warden; the inmate may write to a proposed correspondent to obtain a release authorizing an investigation; such investigation may then be conducted to obtain information necessary to evaluate the status and relationship of the correspondent;

(3) Correspond with friends and former business associates when it appears to the Warden that it will not be detrimental to the inmate or his correspondent; correspondence with business associates is limited to social matters; social correspondence generally is limited to those persons known by the inmate prior to confinement; and

(4) Correspond with a person having a criminal record if the Warden considers the correspondence to be constructive and directed to socially useful and rehabilitative goals.

(e) The Warden may allow an inmate additional correspondence with persons other than those on his approved mailing list when the correspondence is shown to be necessary and does not require an addition to the mailing list because it is not of an ongoing nature.

§ 540.14 Inmate correspondence while in admission and orientation, segregation and holdover status.

(a) The Warden shall permit an inmate in Admission and Orientation status to send mail to and receive mail from at least two close relatives during the orientation period.

(b) The Warden shall permit imates in holdover status to have correspondence privileges similar to those of other inmates in so far as practical.

(c) The Warden shall permit an inmate in segregation to have full correspondence privileges unless placed on restricted general correspondence under § 540.13.

§ 540.15 Correspondence between confined inmates.

(a) An inmate may request to correspond with an inmate confined in another penal institution.

(b) The Warden may permit an inmate to correspond with inmates confined in other penal institutions only if the correspondence:

(1) Is between close relatives;

(2) Involves legal matters where the inmates are parties or witnesses in the same civil or criminal court action; or

(3) Involves a relationship between the confined inmates which existed prior to commitment and both institutions agree that the correspondence is beneficial to both inmates.

§ 540.16 Prisoner's mail box (PMB).

(a) The Warden shall establish one or more PMBs, centrally located, to ensure ready accessibility to the inmate population.

(b) Institution staff shall notify each inmate that he is responsible for his correspondence placed in the PMB as stated in § 540.11(c).

(c) An inmate shall address all correspondence as legibly as possible but may not be required by staff to place his name or identifying mark on the envelope, except as provided in paragraph (f) of this section.

(d) Staff shall provide a current Congressional Directory for use by inmates.

(e) Staff shall allow an inmate to send letters through the PMB as registered, certified or special delivery if he so desires at his own expense. In order to do so, the inmate shall identify himself and his registration number on the envelope so that the proper procedures for handling mail of this type can be followed.

(f) In order to send mail through the PMB to an attorney's assistant or to a legal aid student or assistant, an inmate shall address the mail to the attorney or legal aid supervisor, to the attention of the student or assistant.

§ 540.17 Incoming special mail.

(a) The Warden shall open special mail only in the presence of the inmate for inspection for physical contraband. The correspondence may not be read or copied if the sender has adequately identified himself on the envelope and has stated on the envelope that his mail is "Special mail—open only in the presence of the inmate."

(b) In the absence of this claim of privilege appearing on the envelope, staff may treat the mail as general correspondence and may open, inspect, and read the mail.

§ 540.18 Legal correspondence.

(a) Staff may examine in the presence of the inmate enclosures in correspondence sent by an attorney to an inmate to make certain they are within the scope of the attorney/client relationship.

(b) Staff shall mark each envelope to show the date and time of receipt, the date and time that the letter is delivered to an inmate and opened in his presence, and the same of the staff member who delivered the letter.

(c) Staff shall attach a statement to correspondence sent by an inmate to an attorney, cautioning against (1) Use of the mail for purposes other than those within the purview of the attorney/client relationship, (2) transmittal of contraband, or (3) forwarding of any matter from other correspondents. Staff shall advise the attorney that, provided the envelope is marked "Special mail—open only in the presence of the inmate" and is marked with the attorney's name and an indication that he is an attorney, the mail will be opened only in the presence of the inmate and solely for the purpose of inspection for physical enclosures outside the attorney/client relationship or constituting contraband, and the attorney's letter will not be read or copied. Contraband need not be returned to the sender but may be referred to the appropriate investigating agency.

(d) Grounds for the limitation or denial of an attorney's correspondence rights or privileges is stated in § 543.4. If such action is taken the Warden shall give notice to the attorney and the inmate affected.

(e) Mail to an inmate from an attorney's assistant or legal aid student or assistant, in order to be identified and treated by staff as special mail, must be properly identified on the envelope as required in paragraph (c) of this section and as special mail from the attorney or from the legal aid supervisor.

§ 540.19 Inmate correspondence with representatives of the news media.

(a) An inmate may write through the PMB to representatives of the news media specified by name or title. (See § 540.2.)

(b) The inmate may not receive compensation or anything of value for correspondence with the news media. The inmate may not act as reporter or publish under a byline.

(c) Representatives of the news media may initiate correspondence with an inmate. Staff shall inspect incoming correspondence from representatives of the news media for contraband and for content which is likely to promote illegal activity, or conduct contrary to Bureau regulations. Staff shall return a rejected letter to the sender, with a brief explanation for the rejection. Contraband need not be returned to the sender but may be referred to the appropriate investigating agency. Staff shall notify the sender that he may protest the rejection. The protest is referred for review to a staff member other than the staff member who originally disapproved the correspondence.

§ 540.20 Exception to notification procedures.

(a) When correspondence, which includes plans or evidence of a crime, is rejected, there is no need to return the correspondence or to give an explanation to the sender, and there is no need for staff to notify the inmate affected.

(b) The return and notification procedures do not apply in those exceptional cases where there is sound reason to believe that the return or notification could pose a threat to the security or good order of the institution or the safety of any individual.

Subpart C—[Reserved]

Subpart D—Inmate Visiting

§ 540.40 Purpose and scope.

The Bureau of Prisons encourages visiting to develop and maintain family and community relationships and inmate morale. The Warden shall develop procedures consistent with this subpart to permit inmate visiting. The Warden may re-

strict inmate visiting when necessary to insure the security, good order, and discipline of the institution.

§ 540.41 Supervision of visits.

(a) Staff shall supervise each inmate visit to prevent the passage of contraband and to insure the security, good order, and discipline of the institution.

(b) Staff shall permit limited physcial contact, such as handshaking, embracing and kissing, between an inmate and a visitor at the beginning and end of a visit. The staff may limit physical contact to minimize opportunity for introduction of contraband.

(c) Staff may at any time require an inmate or his visitor or both to submit to a personal search, including any items of personal property, as a condition of allowing or continuing the visit.

(d) Staff may not accept an article or gift for an inmate unless it has been previously approved by the Warden except that a visitor may leave money for deposit into an inmate's commissary account in compliance with procedures established by the Warden.

§ 540.42 Visiting facilities.

The Warden shall insure that the visiting area is as comfortable and pleasant as practical. The Warden may permit an inmate with appropriate custody classification (Part 524 of this chapter) to visit in an area other than the principal visiting room, but all visiting areas must be under staff supervision.

§ 540.43 Visiting times, numbers of visitors and frequency of visits.

(a) The Warden shall establish a schedule that permits, at a minimum, visiting on weekends and holidays and, when feasible, during weekdays and evenings.

(b) The Warden may limit the length or frequency of visits or the number of visitors per visit for the reasons specified in Section 540.40.

§ 540.44 Persons who may be authorized to visit an inmate regulatory and procedure for approval.

(a) The Warden shall place members of an inmate's immediate family (parents, step parents, foster parents, siblings, spouses, and children) on the inmate's regular visiting list and shall permit them to visit, subject to the limitations and conditions of this subpart.

(b) The Warden shall place a person other than an immediate family member of an inmate on the inmate's regular visiting list and shall permit him to visit subject to the limitations and conditions of this subpart, if the inmate establishes, and the Warden determines that the relationship is beneficial for the inmate.

(c) An inmate desiring to have regular visitors must submit a list of proposed visitors to the Warden. The Warden may, as a prerequisite of allowing visits, require the proposed visitor to provide the following personal information:

(1) Name, address, age;

(2) Relationship to the inmate;

(3) Prior criminal record and present probation or parole status;

(4) Reason for visiting;

(5) Length of time the potential visitor has known the inmate; and

(6) Whether the potential visitor is writing or visiting other inmates, and if so, whom.

(d) The Warden may, as a prerequisite of allowing a visit, request information from law enforcement agencies regarding a potential visitor and require a potential visitor to provide an authorization for the law enforcement agency to release information in response to the request.

§ 540.45 Special visitors.

(a) The Warden may authorize a special visit for a person not on the regular visiting list for purposes such as release planning, counseling or discussion of acute family problems.

(b) Unless the Warden authorizes an exception, children under the age of 16 years may not be permitted to visit an inmate unless accompanied by a responsible adult.

(c) The Warden may approve a person with a record of criminal conviction to visit an inmate only if the Warden determines that the value of the visit to the inmate is greater than the potential risk to institution security of allowing the visit.

(d) The Bureau of Prisons does not permit an inmate to engage actively in a business or profession while confined. At the Warden's discretion, however, an inmate may be permitted to have a visit for protecting his resources or financial interests.

§ 540.46 Visits by attorneys.

(a) The Warden shall, under the conditions of this section, permit visits by the retained, appointed, or prospective attorney of an inmate or by an attorney who wishes to interview an inmate as a witness.

(b) The Warden generally may not limit the frequency of attorney visits since the number of visits necessary is dependent upon the nature and urgency of the legal problems involved. The Warden shall set the time and place for visits, which ordinarily take place during regular visiting hours. Attorney visits shall take place in a private conference room, if available, or in a regular visiting room in an area and at a time designed to allow a sufficient degree of privacy. The Warden may make exceptions according to local conditions or for an emergency situation demonstrated by the inmate or visiting attorney.

(c) The attorney shall make an advance appointment for the visit through the Warden prior to each visit; however, the Warden shall make every effort to arrange for a visit when prior notification is not practical.

(d) The Warden may require an attorney to indicate where he is licensed as an attorney and how that fact may be verified. Prior to each appointment or visit, the Warden shall require each attorney to identify himself and to confirm that he wishes to visit an inmate who has requested his visit or whom he represents or whom he wishes to interview as a witness. The Warden may not ask the attorney to state the subject matter of the law suit or interview. If there is any question about the identity of the visitor or his qualification as an attorney in good standing, the Warden shall refer the matter to the Regional Counsel.

(e) Staff may not subject visits between an attorney and an inmate to auditory supervision. The Warden may permit tape recordings to be used by an attorney during the course of a visit only if the attorney states in writing in advance of the interview that the sole purpose of the recording is to facilitate the attorney-client or attorney-witness relationship.

(f) The Warden may, at any time, subject an attorney to a search of his person and belongings as a condition of visiting an inmate.

(g) As to limitation or denial of attorney visits, see Part 543, of this chapter.

§ 540.47 Consular visits.

The Warden shall permit a Consular representative of a foreign country to visit an inmate who is a citizen of that country subject to the limitations and conditions of this subpart.

§ 540.48 Visits for inmates in special housing status.

(a) The Warden may limit visits to an inmate in Admission and Orientation Status to immediate family members until the staff has had reasonable time to prepare the list of authorized visitors.

(b) The Warden may limit, for medical reasons, visits to an inmate who is hospitalized in the institution.

(c) A visit to an inmate who is hospitalized in a local community hospital may be limited to immediate family members and is subject to the general visiting policy of that hospital.

(d) The Warden may limit visits to an inmate in Administrative Detention or Disciplinary Segregation (Part 541 of this chapter) if the inmate has violated the visiting regulations or if the visit would jeopardize the security, good order, or discipline of the institution. Otherwise, the Warden shall permit regular visiting.

§ 540.49 Penalty for violating visiting regulations.

Any efforts to violate visiting regulations may result in denial of future visits, inmate disciplinary action, or criminal prosecution.

Subpart E—Contact With News Media

§ 540.60 Purpose and scope.

The Bureau of Prisons recognizes the desirability of establishing a policy that affords the public greater information about its operations via the news media. Representatives of the news and other media may visit institutions for the purpose of preparing reports about the institution, programs, and activities. It is not the intent of this rule to provide publicity to an inmate or special privileges for the news media, but rather to

insure a better informed public. The Bureau of Prisons has a responsibility to protect the rights of all inmates and members of the staff. Therefore, an interview in an institution must be regulated to insure the orderly and safe operation of the institution.

§ 540.61 Authorizations.

(a) A news media representative who desires to make a visit or conduct an interview at an institution must make application in writing to the Warden, indicating that he is familiar with the rules and regulations of the institution and agrees to comply with them.

(b) As a condition of authorizing interviews and making facilities available to conduct an interview, the news media representative shall recognize a professional responsibility to make reasonable attempts to verify any allegations regarding an inmate, staff member or institution.

(c) A representative of the news media is requested to provide the Bureau of Prisons an opportunity to respond to any allegation, which might be published or broadcast prior to distribution.

(d) A representative of the news media shall collect information only from the primary source. A representative of the news media may not obtain and use personal information from one inmate about another inmate who refuses to be interviewed.

(e) The Warden may be contacted concerning discussions or comments regarding applicability of any rule or order.

(f) Failure to adhere to the standards of conduct set forth by this rule for the news media representative constitutes grounds for denying that news media representative, or the news organization which he represents, permission to conduct an interview.

(g) Any questions as to the meaning or application of this subpart are resolved by the Director of the Bureau of Prisons.

§ 540.62 Institutional visits.

(a) A media representative shall make advance appointments for visits.

(b) When media representatives visit the institution, photographs of programs and activities may be taken, and media representatives may meet with groups of inmates engaged in authorized programs and activities. An inmate has the right not to be photographed and not to have his voice recorded by the media. A visiting representative of the media is required to obtain written permission from an inmate before photographing or recording the voice of an inmate participating in authorized programs and activities. Use of the inmate's name, identifiable photographs or voice recordings are not encouraged.

(c) The Warden may suspend all media visits during an institutional emergency and for a reasonable time after the emergency.

(d) An inmate currently confined in an institution may not be employed or act as a reporter or publish under a byline.

(e) Interviews by reporters and others not included in § 540.2 may be permitted only by special arrangement and with approval of the Warden.

§ 540.63 Personal interviews.

(a) An inmate may not receive compensation or anything of value for interviews with the news media.

(b) Either an inmate or a representative of the news media may initiate a request for a personal interview at an institution.

(c) Visits by the news media to conduct personal interviews are subject to the same conditions stated in § 540.62. A media representative shall make request for personal interview within a reasonable time prior to the personal interview.

(d) Staff shall notify an inmate of each interview request, and shall, as a prerequisite, obtain from the inmate written consent for the interview prior to the interview taking place. The written consent or denial becomes part of the inmate's central file.

(e) As a prerequisite to granting the interview, an inmate must authorize the institutional staff to respond to comments made in the interview and to release information to the news media relative to the inmate's comments.

(f) The Warden shall normally approve or disapprove an interview request within 24 to 48 hours of the request.

(g) The Warden shall document any disapproval. A request for interview may be denied for any of the following reasons:

(1) The news media representative, or the news organization which he represents, does not agree to the conditions established by this subpart or has, in the past, failed to abide by the required conditions.

(2) The inmate is physically or mentally unable to participate. This must be supported by a medical officer's statement (a psychologist may be used to verify mental incapacity) to be placed in the inmate's record, substantiating the reason for disapproval.

(3) The inmate is a juvenile (under age 18) and written consent has not been obtained from his parent or guardian. If the juvenile inmate's parents or guardians are not known or their addresses are not known, the Warden of the institution shall notify the representative of the news media of the inmate's status as a juvenile, and shall then consider the request.

(4) The interview, in the opinion of the Warden, would endanger the health or safety of the interviewer, or would probably cause serious unrest or disturb the good order of the institution.

(5) The inmate is involved in a pending court action and the court having jurisdiction has issued an order forbidding such interviews.

(6) In the case of unconvicted persons (including competency commitments under 18 U.S.C. 4244 and 4246) held in Federal institutions, interviews are not authorized until there is clearance with the court having jurisdiction, ordinarily through the U.S. Attorney's Office.

(7) The inmate is a "protection" case and revelation of his whereabouts would endanger his safety.

(h) Interviews are normally held in the institution visiting room during normal weekday business hours. The Warden shall limit interviews to two one-hour sessions per inmate per month. The Warden may:

(1) Determine that another location is more suitable for conducting the interview;

(2) Further limit interview time for the entire institution if he determines that the interviews are imposing a serious drain on staff or use of the facilities;

(3) Limit to one one-hour interview per month for an inmate in segregation, restricted, holdover, control unit, or hospital status if required by special security, custodial, or supervisory needs; and

(4) Limit the amount of audio, video, and film equipment or number of media personnel entering the institution if he determines that the requested equipment or personnel would create a disruption within the institution.

(i) In conjunction with the personal interview, if the member of the media wishes to tour the institution, he must comply with the provisions of § 540.61.

(j) Interviews are not subject to auditory supervision.

§ 540.64 Press pools.

(a) The Warden may establish a press pool whenever he determines that the frequency of requests for interviews and visits reaches a volume that warrants limitations.

(b) Whenever the Warden establishes a press pool, he shall notify all news media representatives who have requested interviews or visits that have not been conducted. Selected representatives are admitted to the institution to conduct the interviews under the specific guidelines established by the Warden.

(c) All members of the press pool are selected by their peers and consist of not more than one representative from each of the following groups:

(1) The national and international news services;

(2) The television and radio networks and outlets;

(3) The news magazines and newspapers; and

(4) All media in the local community where the institution is located. If no interest has been expressed by one or more of these groups, no representative from such group need be selected.

(d) All news material generated by such a press pool is made available to all media without right of first publication or broadcast.

§ 540.65 Release of information.

(a) The Warden shall promptly make announcements stating the facts of unusual incidents to local news media.

(b) The Warden shall provide information about an inmate that is a matter of public record to the representatives of the media upon request.

The information is limited to the inmate's:

(1) Name;

(2) Register number;
(3) Place of incarceration;
(4) Age;
(5) Race;
(6) Offense for which convicted;
(7) Court where sentenced;
(8) Length of sentence;
(9) Date of sentencing;
(10) Date of arrival at the institution;
(11) Past movement via transfers or writs;
(12) General institutional assignments;
(13) Parole eligibility date; and
(14) Date of expiration of sentence.

(c) Information in paragraphs (b) (1) through (14) of this section may not be released if confidential for protection cases.

(d) A request for additional information concerning an inmate by a representative of the news media is referred to the Public Information Officer, Central Office, Washington, D.C.

(e) The Public Information Officer, Central Office, Washington, D.C. shall release all announcements related to:
(1) Bureau of Prisons policy;
(2) Changes in an institutional mission;
(3) Type of inmate population; or
(4) Changes in executive personnel.

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Subpart A—[Reserved]

Subpart B—Inmate Discipline

Sec.
541.10 Purpose and scope.
541.11 Notice to inmate of institution rules.
541.12 Incident report and investigation.
541.13 Initial hearing.
541.14 Establishment and functioning of institution discipline committee.
541.15 Procedures in institution discipline committee hearings.
541.16 Dispositions of the institution discipline committee.
541.17 Appeals from institution discipline committee actions.
541.18 Justifications for placement in disciplinary segregation and review of inmates in disciplinary segregation.
541.19 Disciplinary procedures for Federal Community Treatment Centers.
541.20 Conditions of disciplinary segregation.
541.21 Administrative detention.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0–99.

Subpart A—[Reserved]

Subpart B—Inmate Discipline

§ 541.10 Purpose and scope.

(a) So that inmates may live in a safe and orderly environment, it is necessary for institution authorities to impose discipline on those inmates whose behavior is not in compliance with institution rules.

(b) The following general principles apply in every disciplinary action taken:

(1) Only institution staff may take disciplinary action.

(2) Staff shall take disciplinary action at such times and to the degree necessary to regulate an inmate's behavior within institution rules.

(3) Staff shall control inmate behavior in a completely impartial and consistent manner.

(4) Disciplinary action may not be capricious or retaliatory.

(5) Staff may not impose or allow imposition of corporal punishment of any kind.

§ 541.11 Notice to inmate of institution rules.

Staff shall advise each inmate in writing at the time of arrival at an institution of:

(a) The types of disciplinary action which may be taken by institution staff;

(b) The disciplinary system within the institution (See Table 1);

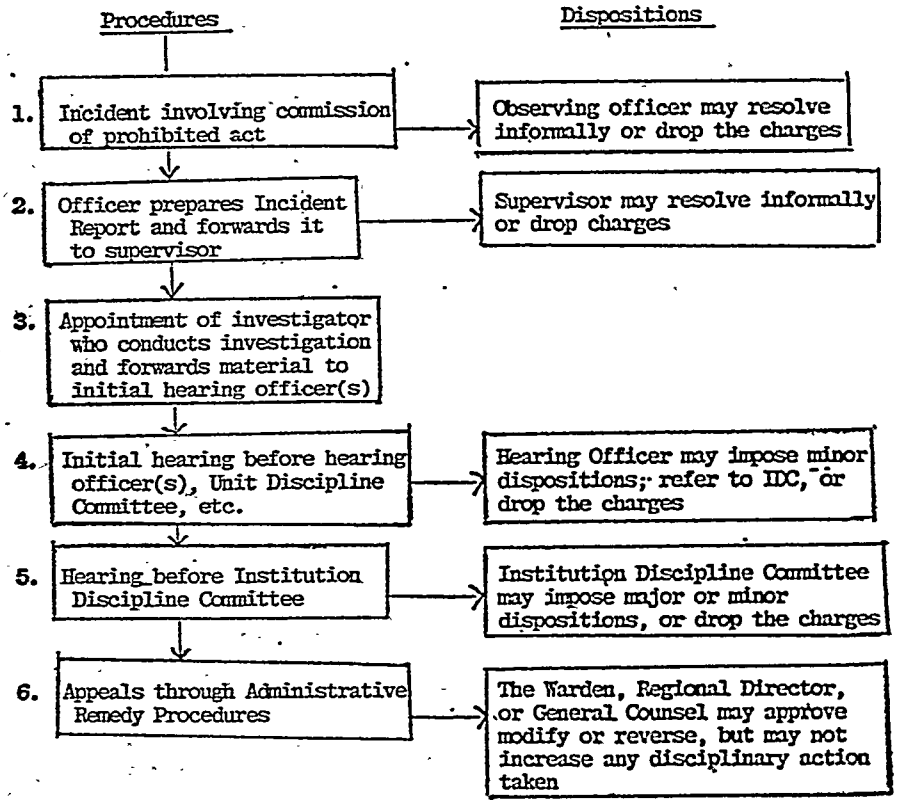
(c) The inmate's rights and responsibilities; and

(d) Prohibited acts by inmates and code numbers, which are:

001 Killing.
002 Assaulting any person.
003 Fighting with another person.
004 Threatening another with bodily harm, or with any offense against his person or property.
005 Extortion, blackmail, protection: demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
051 Engaging in sexual acts with others.
052 Making sexual proposals or threats to another.
053 Indecent exposure.
101 Escape.
102 Attempting or planning escape.
103 Wearing a disguise or mask.
151 Setting a fire.
152 Destroying, altering, or damaging government property, or the property of another person.
153 Stealing (theft).
154 Tampering with or blocking any locking device.
155 Adulteration of any food or drink.
201 Possession or introduction of an explosive or any ammunition.
202 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, or unauthorized tool.
203 Possession, introduction, or use of any narcotics, narcotic paraphernalia, drugs, or intoxicants not prescribed for the individual by the medical staff.
204 Misuse of authorized medication.
205 Possession of money or currency, unless specifically authorized.
206 Possession of property belonging to another person.
207 Loaning of property or anything of value for profit or increased.
208 Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular institutional channels.
209 Possessing any officer's or staff clothing.
210 Possessing unauthorized clothing.
211 Mutilating or altering clothing issued by the government.
251 Rioting.
252 Encouraging others to riot.
253 Engaging in, or encouraging, a group demonstration.
254 Refusing to work, or to accept a program assignment.
255 Encouraging others to refuse to work or participate in work stoppage.
256 Refusing to obey an order of any staff member.
257 Violating a condition of furlough.
258 Violating a condition of work or study release.
301 Unexcused absence from work, or any assignment.
302 Malingering, feigning an illness.
303 Failing to perform work as instructed by a supervisor.
304 Insolence towards a staff member.
305 Lying or providing a false statement to a staff member.
306 Conduct which disrupts or interferes with the security or orderly running of the institution.
307 Refusing to disclose to staff information concerning the commission of a prohibited act.
351 Counterfeiting, forging, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
401 Participating in an unauthorized meeting or gathering.
402 Being in an unauthorized area.
451 Failure to follow safety or sanitation regulations.
452 Using any equipment or machinery which is not specifically authorized.
453 Using any equipment or machinery contrary to instructions or posted safety standards.
501 Failing to stand count.
502 Interfering with the taking of count.
551 Making intoxicants.
552 Being intoxicated.
553 Smoking where prohibited.
554 Using abusive or obscene language.
601 Gambling.
602 Preparing or conducting a gambling pool.
603 Possession of gambling paraphernalia.
651 Being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards.
652 Tattooing or self-mutilation.
701 Unauthorized use of mail or telephone.
702 Unauthorized contacts with the public.
703 Correspondence or conduct with a visitor in violation of posted regulations.
751 Giving or offering any official or staff member a bribe, or anything of value.
752 Giving money or anything of value to, or accepting money or anything of value from another inmate, a member of his family, or his friend.
801 Attempting to commit any of the above offenses, aiding another person to commit any of the above offenses, and making plans to commit any of the above offenses shall be considered the same as a commission of the offense itself.

SUMMARY OF DISCIPLINARY SYSTEM

TABLE 1



§ 541.12 Incident report and investigation.

(a) *Incident Report:* The Bureau of Prisons encourages informal resolution of incidents involving violations of institution regulations. However, when staff witnesses or has a reasonable belief that a violation of institution regulations has been committed by an inmate, and when staff consider informal resolution of the incident inappropriate, staff shall prepare an incident report and promptly forward it to the appropriate correctional supervisor. This supervisor may informally dispose of the incident report or forward the incident report for investigation consistent with this section. The correctional supervisor shall expunge the inmate's file of the incident report if informal resolution is accomplished.

(b) *Investigation:* Staff shall conduct the investigation within 24 hours of appointment of the investigator, unless circumstances beyond the control of the investigator intervene. The investigating officer should be an employee of supervisory level and may not be the employee reporting the incident in question. When it appears likely that the incident may be the subject of a criminal prosecution, the investigating officer shall suspend the investigation, and staff may not question the inmate until the FBI interviews have been completed or until the FBI advises that staff questioning may occur. Ordinarily, the investigating officer shall give the inmate a copy of the incident report at the beginning of the investigation. This delivery must be done within eight hours from the time the investigator receives the assignment, unless there are exceptional circumstances which prevent it. If the investigation is delayed for any reason, any employee may deliver the charges to the inmate. The staff member shall note the date and time the inmate received a copy of the incident report. The investigator shall also read the charges to the inmate and obtain his statement concerning the incident, unless it appears likely that the incident may be the subject of criminal prosecution. The investigator shall then thoroughly investigate the incident. He shall record all steps and actions taken on the incident report and forward all relevant material to the staff holding the initial hearing. The inmate does not receive a copy of the investigation. However, if the case is ultimately forwarded to the Institution Discipline Committee, the Committee shall give a copy of the investigation to the inmate's staff representative for use in his presentation on the inmate's behalf.

(c) The investigating officer may extend time limits imposed in this section for good cause shown by the inmate or staff.

§ 541.13 Initial hearing.

The Warden shall delegate to one or more institution staff members (usually a unit or team discipline committee) the authority and duty to hold an initial hearing upon completion of the investigation. If the appointed staff member(s) (hereinafter referred to as hearing officers(s)) find at the initial hearing that an inmate has committed a prohibited act, the hearing officer(s) may impose minor dispositions and sanctions or refer the charges to the Institution Discipline Committee for a rehearing. Minor dispositions and sanctions include all disciplinary actions other than segregation, withholding or forfeiture of good time, transfer for disciplinary reasons, or recommendations to the U.S. Parole Commission for rescission or retardation of parole grants. The process by which staff imposes minor dispositions is left to the discretion of the Warden, but the following minimum standards apply to initial hearings in all institutions:

(a) Staff shall give each inmate charged with violating an institution rule a written copy of the charges against the inmate within 24 hours of the time staff became aware of the infraction.

(b) Each inmate so charged is entitled to an initial hearing before an officer(s), other than the reporting or investigating officer, held within 48 hours (excluding weekends and holidays) of the incident to consider the charge brought against the inmate.

(c) The inmate is entitled to be present at the initial hearing except during deliberations of the decision maker or when institutional security would be jeopardized by his presence. The hearing officer(s) shall clearly document in the record of the hearing reasons for excluding an inmate from the hearing.

(d) The inmate is entitled to make a statement and to present documentary evidence in his own behalf.

(e) The hearing officer(s) shall give the inmate a written copy of the decision and disposition. Any action taken as a minor disposition is reviewable under the Administrative Remedy Procedure. (Part 542 of this chapter).

(f) When an alleged violation of institution rules is serious and warrants consideration for other than minor sanctions, the hearing officer(s) shall refer the charge to the Institution Discipline Committee for hearing and disposition. The hearing officer(s) shall forward copies of all relevant documents to the Chairman of the Institution Discipline Committee, with a brief statement of reasons for the referral along with any recommendations for appropriate disposition if the Committee finds the inmate has committed the act charged or a similar prohibited act. The inmate whose charge is being referred to the Institution Discipline Committee may be retained in Administrative Detention or other restricted status, but the hearing officer(s) may not impose a final disposition if the matter is being referred to the Institution Discipline Committee.

(g) When the hearing officer(s) holds a full hearing and determines that the inmate did not commit a prohibited act, the hearing officer(s) shall expunge the inmate's file of the incident report and related documents lodged against him.

(h) The hearing officer(s) may extend time limits imposed in this section for good cause shown by the inmate or staff.

§ 541.14 Establishment and functioning of institution discipline committee.

(a) The Warden shall establish a single Institution Discipline Committee. In the event of a serious disturbance or other emergency, or if an inmate commits an offense in the presence of the Committee, the Warden may establish more than one Institution Discipline Committee with approval of the appropriate Regional Director.

(b) The Warden may appoint as many members to the Institution Discipline Committee as are appropriate. At least three members, including the Chairman, shall be present at any hearing to constitute a quorum. The Chairman and at least one member present at the hearing must be of the department head level or higher. The third member and additional members of the Committee need not be of department head level. For the purpose of this section, "department head" includes acting department head. In order to insure impartiality, no member of the Committee may be the reporting, investigating or initial hearing officer or a witness to the incident or play any significant part in having the charge referred to the Committee. However, a staff member witnessing an incident may sit as a member of the Committee where virtually every staff member in the institution witnessed it in whole or in part.

(c) The Institution Discipline Committee shall conduct hearings, make findings, and impose appropriate sanctions for incidents of inmate misconduct referred to it for disposition following the hearing required by § 541.13 before the initial hearing officer(s). The Institution Discipline Committee may not hear any case or impose any sanctions (except as provided in § 541.16(d), continuing offenses) in a case not heard and referred by the initial hearing officer(s). While this Committee may impose any lesser sanctions available, only this Committee has the authority to order:

(1) An inmate placed or retained in disciplinary segregation;

(2) An inmate's statutory good time withheld or forfeited;

(3) An inmate transferred to another institution for disciplinary reasons; or

(4) A recommendation to the U.S. Parole Commission that the Commission retard or rescind an inmate's parole grant. The Commission, however, may request the Institution Discipline Committee to hold a fact finding hearing in any case where the Commission considers it necessary to determine whether to rescind or retard a parole grant. In study cases (18 USC 4205(c), 4252, 5010 (e), 5037(c)), any report of disciplinary action to the sentencing judge must be preceded by a hearing in accordance with § 541.15.

This Committee shall conduct reviews of inmates placed in disciplinary segregation in accordance with the requirements of § 541.18.

§ 541.15 Procedures in institution discipline committee hearings.

The Institution Discipline Committee shall proceed as follows:

(a) The Warden shall give an inmate advance written notice of the charge against the inmate no less than 24 hours before his appearance before the Institution Discipline Committee, unless he is to be released from custody within that time. An inmate may waive in writing the 24 hour notice requirement.

(b) The Warden shall provide an inmate the service of a full time staff member to represent the inmate at the hearing before the Institution Discipline Committee should the inmate so desire. The staff representative shall be available to assist the inmate if the inmate desires by speaking to witnesses and by presenting favorable evidence to the Committee on the merits of the charges or in extenuation or mitigation of the charges. The chairman shall arrange for the presence of the staff representative selected by the inmate. If the staff member selected declines or is unavailable because of absence from the institution, the inmate has the option of selecting another representative, or in the case of an absent staff member of waiting a reasonable period for the staff member's return, or of proceeding without a staff representative. When an inmate who is illiterate requests a staff representative or when an inmate facing complex charges requests a staff representative, but staff members decline this role, the Warden shall appoint a staff representative to assist the inmate. The Committee shall afford a staff representative adequate time to speak with the inmate and interview requested witnesses where appropriate. While it is expected that a staff member will have had ample time to prepare prior to the hearing, delays in the hearing to allow for adequate preparation may be ordered by the Chairman of the Institution Discipline Committee.

(c) An inmate has the right to submit names of requested witnesses and have them called to present documents in his behalf, provided the calling of witnesses or the disclosure of documentary evidence does not jeopardize or threaten institutional or an individual's security. The chairman shall call those witnesses who are reasonably available and are necessary for an appreciation of the circumstances surrounding the charge. The Chairman need not call repetitive witnesses and may ask unavailable witnesses to submit written statements. The Chairman shall document reasons for declining to call requested witnesses in the Committee's report. The inmate's staff representative or, when the inmate waives staff representative, members of the Committee, shall question witnesses requested by the inmate who are called before the Committee.

(d) An inmate has the right to be present through the Institution Discipline Committee hearing except during deliberations of the Committee or when institutional security would be jeopardized. The Chairman must document the reasons for excluding an inmate from the hearing in the record. The Committee may conduct a hearing in the absence of an inmate when the inmate refuses to appear and cannot be brought to the hearing without the use of force. When an inmate escapes or is otherwise absent from custody, the Institution Discipline Committee shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined. When an inmate who has had any sanctions imposed by the Committee while absent from custody returns to custody, the Warden shall advise the inmate of his right to have the escape charge reheard before the Institution Discipline Committee at the institution to which the inmate was returned to custody. All the procedural requirements of Institution Discipline Committee hearings practicable apply to this rehearing, except that written statements of witnesses not readily available may be liberally used instead of live witnesses. The Institution Discipline Committee upon rehearing may dismiss the charge, or may modify but may not increase the sanctions previously imposed in the inmate's absence.

(e) The Committee, at any time prior to making a final judgment as to whether or not a prohibited act was committed, may continue the hearing until a later date whenever further investigation or more evidence is needed.

(f) The Committee shall consider all evidence presented at the hearing and shall make a final judgment in accordance with the greater weight of the evidence. The Committee shall find that the inmate either—

(1) Committed the prohibited act charged or a similar prohibited act, or

(2) Did not commit the prohibited act charged or a similar prohibited act.

(g) The Institution Discipline Committee shall prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights, the Committee's findings, the Committee's decision and the specific evidence relied on by the Committee, and must include a brief statement of the reasons for the sanctions imposed. The evidence relied upon the decision and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security.

(h) The Institution Discipline Committee shall expunge an inmate's file of the incident report whenever the Committee finds the inmate did not commit a prohibited act. The requirement for expunging the inmate's file does not preclude maintaining copies of disciplinary actions resulting in "not guilty" findings in a master file separate from the inmate's institution file for research

purposes. However, institution staff may not use or allow the usage of the contents of this master file in any manner which would adversely affect the inmate. Likewise, the expungement requirement does not require the destruction of medical reports or Special Housing Report Forms relating to a particular inmate which must be maintained to document medical or other treatment given in a Special Housing Unit. If an inmate's conduct during one continuous incident may constitute more than one prohibited act, and if the incident is reported in a single Incident Report, and if the Committee finds the inmate has not committed every prohibited act charged, then the Committee shall record it's findings clearly and shall mark out on the Incident Report the incident and code references to charges which were not proved. Institution staff may not use the existence of charge but unproved misconduct against the inmate.

§ 541.16 Dispositions of the institution discipline committee.

The Institution Discipline Committee has available a broad range of sanctions and dispositions when it has completed a hearing. The Institution Discipline Committee may do any of the following:

(a) Dismiss any charge before it upon a finding that the inmate did not commit the prohibited act. The Committee shall order the record of charges expunged upon such finding.

(b) Impose sanctions and dispositions available to the initial hearing officer(s).

(c) Direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this Part.

(d) Withhold an inmate's statutory good time. Extra good time may not be withheld by the Committee. This withholding may not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the statutory good time creditable for the single month during which the violation occurs. Each withholding must be related to a separate offense. Some offenses, such as refusal to work at an assignment, may be recurring and thus may permit consecutive withholding actions. The Committee shall consider withheld good time for restoration on or about six months from the date of the offense which formed the basis of the withholding. The Committee may consider withheld good time for restoration earlier than the six month date if circumstances warrant.

(e) Forfeit an inmate's statutory good time. The good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 USC 4161 (less any previous forfeiture or withholding outstanding). Extra good time may not be forfeited. All or part of an inmate's accumulated statutory good time may be forfeited. The Institution Discipline Committee has the authority to restore all types of forfeited and withheld good time. The Committee shall consider forfeited good time for restoration on or about one year from the date of the offense which formed the basis of the forfeiture. The Committee may consider forfeited good time for restoration earlier than the one year date if circumstances warrant.

(f) Direct that an inmate be transferred to another institution for disciplinary reasons. Where a present or impending emergency requires immediate action, the Warden may transfer an inmate prior to an Institution Discipline Committee hearing only with the approval of the receiving Regional Director. However, a hearing before the Institution Discipline Committee at the receiving institution must be conducted as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. All procedural requirements applicable to Institution Discipline Committee hearings contained in § 541.15 must be utilized, except that written statements of unavailable witnesses may be liberally accepted instead of live testimony.

(g) Make recommendations to the Parole Commission for retardation or rescission of parole grants and hold fact-finding hearings upon request of the Commission as set forth in § 541.14.

(h) Suspend the execution of any sanction it imposes.

§ 541.17 Appeals from institution discipline committee actions.

At the time the Institution Discipline Committee gives an inmate notice of its decision, the Committee shall also advise the inmate that the inmate may appeal the Committee's decision under Administrative Remedy Procedures (see Part 541 of this chapter). On appeals, the Warden, Regional Director, or General Counsel may approve, modify, or reverse any disciplinary action of the Institution Discipline Committee but may not increase the sanctions imposed by the Committee. On appeals, the Warden, Regional Director, or General Counsel shall consider—

(a) Whether the Institution Discipline Committee substantially complied with the regulations on Inmate Discipline;

(b) Whether the Institution Discipline Committee based its decision on substantial evidence; and

(c) Whether under the circumstances, the Institution Discipline Committee imposed a sanction proportionate to the offense.

§ 541.18 Justifications for placement in disciplinary segregation and review of inmates in disciplinary segregation.

(a) Except as provided in paragraph (b) of this section, an inmate may be placed in Disciplinary Segregation only by order of the Institution Discipline Committee following a hearing in which the inmate has been found to have committed a serious act of misconduct which warrants this sanction. The Institution Discipline Committee may order placement in Disciplinary Segregation only when other available dispositions are inadequate to regulate an inmate's behavior within acceptable limits and when his presence in the general population poses a serious threat to life, property, himself, staff or other inmates or to the security or orderly running of the institution.

(b) The Warden may temporarily (not exceeding three days) move to disciplinary segregation an inmate who is causing a serious disruption (threatening life or property) in Administrative Detention, who cannot be controlled within the physical confines of Administrative Detention, and who cannot be safely housed in the institution hospital pending a hearing before the Institution Disciplinary Committee. The Warden may delegate this authority no further than to the official in charge of the institution at the time the move is necessary.

(c) The Institution Discipline Committee shall conduct a hearing and formally review the status of each inmate who spends seven continuous days in disciplinary segregation and thereafter shall review these cases on the record in the inmate's absence each week and shall conduct a hearing and formally review these cases at least once every 30 days. The inmate appears before the Institution Discipline Committee at the hearings, unless force would be required to secure his appearance. Staff shall conduct a psychiatric or psychological interview when Disciplinary Segregation continues beyond 30 days. In the interview and report, staff shall address the inmate's adjustment to surroundings and the threat the inmate poses to himself, staff and other inmates. Staff shall conduct a similar psychiatric or psychological interview and report at subsequent two-month intervals if segregation continues for this extended period.

(d) The Institution Discipline Committee shall release an inmate from Disciplinary Segregation when the Committee finds that the inmate no longer poses a threat to himself or others or to institutional security and when continuation in Disciplinary Segregation is no longer necessary to regulate the inmate's behavior within acceptable limits. The time an inmate spends in Disciplinary Segregation must be proportionate to the offense committed, taking into consideration the inmate's prior conduct, specific program needs, and other relevant factors.

§ 541.19 Disciplinary procedures for Federal Community Treatment Centers.

The following exceptions to the general disciplinary procedures enumerated in §§ 541.10–541.19 for Bureau of Prisons' institutions apply solely to Federal Community Treatment Centers. All other procedures of this part not affected by this section apply to Community Treatment Centers.

(a) *Institution Discipline Committee.* Each Federal Community Treatment Center must have a single Institution

Discipline Committee composed of at least one staff member appointed by the Director of the Center. No member need be of department head level. Federal Community Treatment Centers need not hold initial hearings or establish unit or team disciplinary committees with initial hearing authority but may have only one discipline committee, the Institution Discipline Committee.

(b) *Witnesses.* The Institution Discipline Committee shall permit an inmate appearing before the Committee to request the Committee to call witnesses from outside the Center who are willing to appear before the Committee at their own expense and whose presence at the hearing would not pose a serious threat to the security of the Center. When the Committee refuses a request for an outside witness, the Committee shall clearly document the reasons for refusing this requested witness. The Committee shall liberally accept written statements from requested witnesses who do not appear.

(c) *Offenders programmed in the center pursuant to Pub. L. 91–492 (probationers, parolees, or mandatory releasees).* Center staff shall forward reports of misconduct by an offender programmed in the Center pursuant to Pub. L. 91–492 to the appropriate agency (Probation Office or Parole Commission) for disposition which that agency considers appropriate. This offender may not be the subject of disciplinary action within the Center until the appropriate agency has been contacted. Center staff shall promptly forward this report when the misconduct is serious and arrangements for removal from the Center may be necessary for the protection of life or property.

(d) *Escapes or disappearances from CTCs.* When an inmate is not where he is scheduled to be, and when the Center staff has made reasonable efforts to contact the inmate, Center staff shall declare the inmate to be in escape status. Staff shall take further action following the guidelines under § 541.12. Staff shall effect total resolution of the incident, to the point of holding the hearing in the inmates absence.

(e) *Use of part time employees or other Federal employees in the disciplinary process.* With the exception of sitting as a member of the Institution Discipline Committee, part time employees or other Federal employees (U.S. Probation Officer, U.S. Marshal, etc.) may be used in any stage of the disciplinary process where there is an insufficient number of full time staff available.

§ 541.20 Conditions of disciplinary segregation.

(a) Disciplinary segregation is the status of confinement of an inmate housed in a special housing unit in an individual cell either alone or with other inmates, separated from the general population. Inmates housed in disciplinary segregation have significantly fewer privileges than those housed in Administrative Detention.

(b) The Warden shall maintain for each segregated inmate basic living levels of decency and humane treatment, regardless of the purpose for which the inmate has been segregated. The Warden may add privileges, for the purpose of reinforcing acceptable behavior, to the living conditions of those whose status is purely involuntary or whose confinement is long-term. These privileges should not result in excessively time consuming procedures, or neutralize security.

(c) The basic living standards for segregation are as follows:

(1) *Segregation conditions.* The quarters used for segregation must be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all time. All cells must be equipped with beds. Strip cells may not be a part of the segregation unit. Any strip cells which are utilized must be a part of the medical facility and under the supervision and control of the medical staff.

(2) *Cell occupancy.* Except in emergencies, the number of inmates confined to each cell or room may not exceed the number for which the space was designed. The Warden may approve temporary excess occupancy if he finds there is an emergency requiring this action.

(3) *Clothing and bedding.* An inmate in segregation may wear normal institution clothing but may not have a belt. Staff shall furnish a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate may not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the Medical Officer for medical or psychiatric reasons.

(4) *Food.* Staff shall ordinarily give a segregated inmate the normal meals on the standard ration and menu of the day for the institution. Staff may dispense disposable utensils when necessary.

(5) *Personal hygiene.* Segregated inmates have the opportunity to maintain an acceptable level of personal hygiene. Staff shall provide toilet tissue, wash basin, tooth brush, eye glasses, etc., as needed. Staff may issue a retrievable kit of toilet articles. Each segregated inmate has the right and responsibility to shave and shower at least two times a week, unless these procedures would present an undue security hazard.

(6) *Exercise.* Staff shall permit each segregated inmate no less than two hours exercise each week. Exercise should be provided in two one-hour periods, but if circumstances require, one-half hour periods are acceptable if the two hour minimum is maintained. This provision must be carried out unless compelling security or safety reasons dictate otherwise. Institution staff shall document these reasons.

(7) *Personal property.* Institution staff shall ordinarily impound personal property.

(8) *Reading material.* Staff may provide a reasonable amount of reading material on a circulating basis.

(9) *Supervision.* In addition to the direct supervision afforded by the unit officer, but subject to staff availability, a member of the Medical Department and one or more responsible officer(s) designated by the Warden shall see each segregated inmate daily, including weekends and holidays.

(10) *Correspondence and visits.* Social correspondence privileges continue in segregation unless compelling reasons to the contrary exist. Staff shall make reasonable effort to notify approved social visitors of any necessary restriction on ordinary visting procedures so that they may be spared disappointment and unnecessary inconvenience. If ample time for correspondence exists, staff may place the burden of this notification to visitors on the inmate. In respect to legal, religious, and PMB matters, the relevant regulations must be followed by institution staff (See Parts 540, 543, and 548 of this chapter).

§ 541.21 Administrative detention.

Administrative Detention is the status of confinement in a special housing unit in an individual cell either by himself or with other inmates which serves to remove the inmate from the general population.

(a) *Placement in administrative detention.* The Warden may delegate authority to place an inmate in Administrative Detention to correctional supervisors, shift supervisors, or members of an inmate's unit or team. The Warden may place an inmate in Administrative Detention when the inmate is in holdover status during transfer or is a new commitment pending classification. The Warden may also place an inmate in Administrative Detention when his continued presence in the general population poses a serious threat to life, property, himself, staff, other inmates, or to the security or orderly running of the institution and when the inmate—

(1) Is pending a hearing for a violation of institution regulations;

(2) Is pending an investigation of a violation of institution regulations;

(3) Is pending investigation or trial for a criminal act;

(4) Is pending transfer; or

(5) Requests admission to Administrative Dention for his own protection, or staff determines that admission to or continuation in Administrative Detention is necessary for the inmates own protection.

(b) The Warden shall prepare a memorandum detailing the reason for placing an inmate in Administrative Detention and give a copy of this memorandum to the inmate, provided institutional security is not compromised thereby.

(c) *Review of inmates housed in administrative detention.* The Warden shall designate appropriate staff to review the status of inmates housed in Administrative Detention. The reviewing authority shall hold a hearing and formally review the status of each inmate who spends seven continuous days in Administrative Detention, and thereafter shall review these cases on the record in the inmate's absence each week and shall hold a hearing and review these cases formally at least every 30 days. The inmate appears before the re-

viewing authority at the hearings unless the inmate refuses to appear without the use of force. Administratice Detention is to be used only for short periods of time, except where an inmate needs long-term protection. An inmate may be kept in Administrative Detention for longer term protection only if the need for such protection is documented by the reviewing authority. The reviewing authority shall release an inmate from Administrative Detention when reasons for placement cease to exist.

(d) *Conditions of administratice detention.* The basic level of conditions as described in § 541.20 for Disciplinary Segregation also apply to Administrative Detention. If consistent with available resources and the security needs of the unit, the Warden shall give an inmate housed in Administrative Detention the same general privileges given to inmates in the general population. Unless there are compelling reasons to the contrary, institutions shall provide commissary privileges, reasonable amounts of personal property, and exercise periods exceeding those provided for inmates housed in Disciplinary Segregation. The Warden shall give an inmate in Administrative Detention visiting and correspondence privileges in accordance with Part 540 of this chapter.

PART 543—LEGAL MATTERS

Subpart A—[Reserved]

Subpart B—Inmate Legal Activities

Sec.

543.11 Purpose and scope.
543.12 Legal research and preparation of legal documents.
543.13 Retention of attorneys.
543.14 Limitation or denial of attorney visits and correspondence.
543.15 Legal aid program.
543.16 Other paralegals, clerks, and legal assistants.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A—[Reserved]

Subpart B—Inmate Legal Activities

§ 543.11 Purpose and scope.

The Bureau of Prisons affords an inmate reasonable access to legal materials and counsel and reasonable opportunity to prepare legal documents. The Warden shall establish an inmate law library, and procedures for access to legal reference materials and to legal counsel and for preparation of legal documents.

§ 543.12 Legal research and preparation of legal documents.

(a) The Warden shal make materials in the inmate law library available whenever practical, including evening and weekend hours. The Warden shall allow an inmate a reasonable amount of time, ordinarily during the inmate's leisure time, to do legal research and to prepare legal documents. Where practical, the Warden shall allow preparation of documents in living quarters during an inmate's leisure time.

(b) Staff shall advise an inmate of rules governing use of the inmate law library. Unauthorized possession of library materials by an inmate constitutes a prohibited act, generally warranting disciplinary action (See Part 541 of this chapter).

(c) An inmate may receive or purchase law materials from outside the institution, but the Warden may reject material if there is a compelling reason in the interest of institution security, good order, or discipline. The Warden may limit for housekeeping reasons the amount of legal materials an inmate may accumulate. An inmate may receive legal materials only from primary sources: publishers of law books and court clerks or judges who supply court documents. (See 540.70.)

(d) An inmate is responsible for submitting his documents to court. Institution staff who are authorized to administer oaths shall be available to witness these documents, as requested by inmates and at times scheduled by staff.

(e) Unless the institution has an active, ongoing legal aid program, the Warden shall allow an inmate the assistance of another inmate during their leisure time for purposes of legal research and preparation of legal documents. The Warden may impose limitations on this assistance in the interest of institution security, good order, and discipline.

(f) The institution staff shall, upon an inmate's request and at times scheduled by staff, duplicate legal documents if the inmate demonstrates that more than one copy must be submitted to court. The inmate shall bear the cost, and the duplication shall be done so as not to interfere with regular institution operations. Staff may waive the cost if material to be duplicated is minimal, and the inmate's requests for duplication are not large or excessive.

(g) Unless clearly impractical, the Warden shall allow an inmate preparing legal documents to use a typewriter, or, if the inmate cannot type, to have another inmate type his documents. The Warden may allow the inmate to hire a public stenographer to type documents outside the institution, but the institution may not assume the expense of hiring the public stenographer. Staff shall advise the inmate of any delay in the typing of which they have received notice.

(h) The Warden shall give special time allowance for research and preparation of documents to an inmate who demonstrates a requirement to meet an imminent deadline in a lawsuit. Otherwise, each inmate shall continue his regular institutional activities without undue disruption by legal activities.

(i) As far as practical, with consideration of the needs of other inmates and the availability of staff and other resources, the Warden shall provide an inmate in disciplinary segregation or administrative detention means of access to legal materials and opportunity to prepare legal documents equal to inmates in general population.

§ 543.13 Retention of attorneys.

(a) The Warden shall allow an inmate to contact and retain attorneys. Institution staff may counsel the inmate on legal matters. With the written consent of the inmate, staff may advise an attorney of the inmate's available funds. Staff may not interfere with selection and retention of attorneys if the inmate has attained majority and is mentally competent. If the inmate is a mental incompetent or a minor, the Warden shall refer to the inmate's guardian or the appropriate court all matters concerning the retention and payment of attorneys.

(b) The Bureau of Prisons may not act as guarantor or collector of fees. As to visits by attorneys, correspondence with attorneys and telephone calls to attorneys, see part 540 of this chapter.

§ 543.14 Limitation or denial of attorney visits and correspondence.

(a) An act by an attorney which violates institution regulations (See Part 540 of this chapter) and which threatens the security, good order, or discipline of the institution is grounds for limitation or denial by the Warden of the attorney's privileged visitation and correspondence rights. Acts by an attorney which may warrant such limitation or denial include, for example, the following:

(1) A false statement as to the attorney's identity or qualifications;

(2) A plan, attempt, or act to introduce contraband into the institution;

(3) A conspiracy, attempt to commit, or the actual commission of an act of violence within an institution; and

(4) The encouragement of an inmate to violate institutional regulations.

(b) Unless the breach of regulations is extreme or repeated, limitation rather than a denial of visitation or correspondence rights is proper, especially where the inmate is represented by the attorney and is confronted with a court deadline. For example, the Warden may subject an attorney to a search of his person and belongings or may permit the attorney only non-privileged correspondence. The Warden shall also consider referral of the matter to the state agency regulating the attorney's professional conduct.

(c) An act by an inmate in violation of institution regulations warrants a limitation by the Warden of the inmate's correspondence or visiting rights with attorneys only if necessary to protect institution security, good order, or discipline. The Warden may not deny correspondence or visiting rights with attorneys generally.

(d) The attorney may appeal any limitation or denial by the Warden of attorney visits or correspondence rights to the Regional Director. The inmate affected may appeal through the Administrative Remedy Procedures (see Part 542 of this chapter).

§ 543.15 Legal aid program.

(a) A Legal Aid Program which is funded or approved by the Bureau is expected to provide a broad range of legal assistance to inmates. Staff shall allow these programs generally to operate with the same independence as privately retained attorneys. The Warden shall refer a request or decision to terminate or re-

strict a program to the Regional Counsel.

(b) In order to promote the inmate program relationship the Warden shall give those students or legal assistants working in legal aid programs the same status as attorneys with respect to visiting and correspondence except where specific exceptions are made in this section and in Part 540 of this chapter.

(c) An attorney or law school professor shall supervise students and legal assistants participating in the program. The supervisor shall provide the Warden with a signed statement accepting professional responsibility for acts of each student or legal assistant affecting the institution. The Warden may require each student or legal assistant to complete and sign a personal history statement and a pledge to abide by institution regulations. If necessary to maintain security and good order in the institution, the Warden may prohibit a student or legal assistant from visiting or corresponding with an inmate.

§ 543.6 Other paralegals, clerks and legal assistants.

(a) The Bureau of Prisons recognizes the use of assistants by attorneys to perform legal tasks and, with proper controls and exceptions enumerated in this section and in Part 540 of this chapter, accords such assistants the same status as attorneys with respect to visiting and correspondence.

(b) The attorney who employs an assistant and who wishes the assistant to visit or correspond with an inmate on legal matters shall provide the Warden with a signed statement including:

(1) Certification of the assistant's ability to perform in this role and awareness of the responsibility of this position;

(2) A pledge to supervise the assistant's activities; and

(3) Acceptance of personal and professional responsibility for all acts of the assistant which may affect the institution, its inmates, and staff. Each assistant shall fill out and sign a personal history statement and a pledge to abide by institution regulations. If necessary to maintain security and good order in the institution, the Warden may prohibit a legal assistant from visiting or corresponding with an inmate.

NORMAN A. CARLSON,
Director,
Federal Bureau of Prisons.

MAY 13, 1977.

[FR Doc.77-14332 Filed 5-20-77;8:45 am]

Federal Register

MONDAY, MAY 23, 1977

PART V

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-30, AOR 1977-22]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-22 has been made public at the Commission. Copies of AOR 1977-22 were made available on May 17, 1977. These copies of the advisory opinion Request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-22: Is a proposed contract between the Democratic Congressional Campaign Committee and Universal City Studios, Inc., in connection with a concert fundraiser consistent with the Federal Election Campaign Act of 1971, as amended? Requested by Representative James C. Corman, Chairman, Democratic Congressional Campaign Committee, Washington, D.C.

Dated: May 17, 1977.

THOMAS E. HARRIS,
Vice Chairman of
the Federal Election Commission.

[FR Doc.77-14447 Filed 5-20-77;8:45 am]

Federal Register

MONDAY, MAY 23, 1977

PART VI

FEDERAL ENERGY ADMINISTRATION

■

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for March 1977

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for March 1977

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for March 1977 submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), application of the entitlement adjustment for imports of No. 1 heating oil and No. 2 heating oil into PAD Districts I through IV provided in Special Rule No. 8, and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for March 1977 is calculated to be .273452.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of March 1977, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .326570 of a barrel of deemed old oil.

The issuance of entitlements for the month of March 1977 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of March 1977 at $8.71, which is the exact differential as reported for the month of March between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of March 1977 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of March 1977 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of March 1977 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through February 1977 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, "see Beacon Oil Company, et al," 4 FEA par. 87,024 (November 5, 1976).

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 18,315,749 barrels for March 1977. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 38,661,213 barrels.

The number of barrels of Nos. 1 and 2 heating oil and kerosene imported into PAD Districts I through IV eligible for entitlement issuances pursuant to Special Rule No. 8 for Subpart C (42 FR 9379, February 16, 1977) was 12,668,804. The entitlement value required to be awarded for each barrel of imported product under Special Rule No. 8 is $2.10, which for March is equal to .241102 of an entitlement. Accordingly, the total number of entitlements issued pursuant to Special Rule No. 8 is 3,054,474.

The total number of entitlements required to be purchased and sold under this notice is 23,496,788.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for March 1977 must be made by May 31, 1977.

On or prior to June 10, 1977, each firm which is required to purchase or sell entitlements for the month of March 1977 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(l) certifying its purchases and sales of entitlements for the month of March. FEA has mailed the monthly transaction report forms for the month of March to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by May 31, 1977 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to May 31, 1977, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before June 22, 1977.

Issued in Washington, D.C. on May 17, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE: 6

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
A-JOHNSON	0	141,731	0	4,765	0	0	141,731
AGWAY	0	27,576	0	27,576	0	0	27,576
ALLIED	104,501	153,043	0	0	0	0	48,542
AMER-PETROFINA	1,828,113	1,375,259	0	0	0	452,854	0
AMERADA-HESS	2,150,739	4,245,844	0	139,126	0	0	2,095,105
AMOCO	12,734,016	8,701,792	0	72,949	0	4,032,224	0
APCO	407,783	444,999	0	0	0	0	37,216
ARCO	6,042,321	6,103,849	0	0	0	0	61,528
ARIZONA	71,903	70,191	16,234	0	0	1,712	0
ASAMERA	158,957	184,411	0	0	0	0	25,454
ASHLAND	1,667,885	2,987,005	0	6,023	0	0	1,319,120
ASIATIC	0	29	0	29	0	0	29
BASIN	7,754	25,626	0	0	0	0	17,872
BAYOU	43,644	50,985	0	0	0	0	7,341
BEACON	242,919	153,838	6,007**	0	0	89,081	0
BELCHER	0	199,175	0	199,175	0	0	199,175
BI-PETRO	12,234	155,230	0	0	0	0	142,996
C&H	0	636	0	0	0	0	636
CALUMET	118,193	155,288	0	0	0	0	37,095
CANAL	83,989	72,101	0	0	0	11,888	0
CARIBOU	106,816	108,495	0	0	0	0	1,679
CASTLE	0	27,127	0	27,127	0	0	27,127
CENTRAL	0	7,207	0	7,207	0	0	7,207
CHAMPLIN	2,135,204	1,357,533	0	0	0	777,671	0
CHARTER	689,632	680,904	108,679	0	0	8,728	0
CHEVRON	8,309,375	9,645,417	0	319,545	0	0	1,336,042
CIRILLO	0	228,010	0	228,010	0	0	228,010
CITGO	3,910,063	2,599,717	0	141,966	0	1,310,346	0
CLAIBORNE	55,239	49,390	0	0	0	5,849	0
CLARK	270,885	926,283	0	0	0	0	655,398
COASTAL	465,947	1,444,747	0	0	0	0	958,800
COLONIAL	0	14,960	0	14,960	0	0	14,960
CONOCO	3,358,545	3,071,892	0	95,972	0	286,653	0
CORCO	0	1,459,664	181,909	129,030	0	0	1,459,664

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
CRA-FARMLAND	432,036	432,839	0	0	0	0	803
CROSS	116,255	155,607	0	0	0	0	39,352
CROWN	385,306	735,488	0	0	0	0	350,182
CRYSTAL-OIL	185,643	177,750	0	0	0	7,893	0
CRYSTAL-REF	1,167	45,906	0	0	0	0	44,739
DELTA	383,418	344,814	-26,402**	0	0	18,604	0
DEMENNO	6,046	89,589	0	0	0	0	83,543
DIAMOND	680,499	502,726	0	0	0	177,773	0
DILLMAN	-4,530	2,409	2,409	0	0	0	6,939
DORCHESTER	11,032	14,688	0	0	0	0	3,656
DOW	83,097	168,563	0	0	0	0	85,466
E-SEABOARD	0	127,765	0	127,765	0	0	127,765
ECO	9,096	32,412	0	0	0	0	23,316
EDDY	47,251	153,279	0	0	0	0	106,028
EDGINGTON-OIL	0	-9,848	-9,648**	0	0	9,848	0
ELM	0	14,962	0	14,962	0	0	14,962
ENERGY-COOP	41,957	1,141,896	0	0	0	0	1,099,939
EVANGELINE	-1,286	-29,226	0	0	0	27,940	0
EXXON	13,892,465	10,192,771	0	776,639	0	3,699,694	0
EZ-SERVE	109,167	159,001	0	0	0	0	49,834
FAMARISS	266,479	360,353	0	0	0	0	93,874
FARMERS-UN	205,113	366,894	0	0	0	0	161,781
FLETCHER	15,166	167,290	0	0	0	0	152,124
FLINT	10,519	12,917	0	0	0	0	2,398
GARY	48,548	67,659	0	0	0	0	19,111
GETTY	1,581,481	1,453,960	0	0	0	127,521	0
GIANT	34,739	149,068	0	0	0	0	114,329
GIBBS	0	109,150	0	109,150	0	0	109,150
GIBSON	1,015	4,673	0	0	0	0	3,658
GLACIER-PARK	110,603	60,989	0	0	0	49,614	0
GLADIEUX	68,995	161,082	0	0	0	0	92,087
GLENROCK	718	149,169	0	0	0	0	148,451
GOLDEN-EAGLE	27,473	173,794	0	0	0	0	146,321
GOLDKING	64,745	159,316	0	0	0	0	94,571

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
GOOD-HOPE	119,515	345,010	0	0	0	0	225,695
GUAM	0	146,334	0	0	0	0	146,334
GULF	9,220,808	7,838,198	0	265,365	0	1,382,610	0
GULF-STS	69,965	152,802	0	0	0	0	82,837
HIRI	0	517,850	0	0	0	0	517,850
HOWARD	0	228,681	0	228,681	0	0	228,681
HOWELL	506,716	351,588	0	0	0	155,128	0
HUDSON-OIL	79,031	253,628	0	0	0	0	174,597
HUNT	203,433	322,889	0	0	0	0	119,456
HUSKY	655,715	655,715	275,815	0	0	0	0
INDEPENDENT-REF	155,698	173,821	0	0	0	0	18,123
INDIANA-FARM	65,404	248,046	0	0	0	0	182,642
INGER-OIL	1,894	127,655	0	0	0	0	125,761
IRVING	0	46,115	0	46,115	0	0	46,115
J&W	38,433	41,085	0	0	0	0	2,652
KENCO	26,538	150,528	0	0	0	0	121,990
KENTUCKY	3,534	6,939	0	0	0	0	3,405
KERN	464,452	216,386	0	0	0	248,066	0
KERR-MCGEE	1,507,486	1,456,011	0	0	0	51,475	0
KOCH	362,166	856,630	0	41,071	0	0	494,464
LAGLORIA	459,518	355,910	0	0	0	103,608	0
LAKESIDE	69,095	58,791	0	0	0	10,304	0
LAKETON	167,521	167,521	34,589	0	0	0	0
LITTLE-AMER	1,406,290	1,169,481	590,241	0	0	236,809	0
LOUISIANA-LAND	353,218	390,019	0	0	0	0	36,801
MACMILLAN	37,851	182,056	0	0	0	0	144,205
MARATHON	4,753,376	4,143,966	0	0	0	609,410	0
MARION	167,227	224,319	0	0	0	0	57,092
MID-AMER	18,677	99,976	0	0	0	0	81,299
MID-TEX	11,495	46,437	0	0	0	0	34,942
MIDLAND	0	-10,121	-10,121**	0	0	10,121	0
MOBIL	7,846,089	6,696,567	0	141,813	0	1,149,522	0
MOHAWK	421,752	421,752	121,624	0	0	0	0
MONOCO	0	11,025	0	11,025	0	0	11,025

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
MONSANTO	423,279	303,456	0	0	0	119,823	0
MORRISON	27,002	60,148	0	0	0	0	33,146
MOUNTAINEER	8,101	7,064	0	0	0	1,037	0
MURPHY	963,477	885,509	0	0	0	77,968	0
N-AMER-PETRO	59,877	169,916	0	0	0	0	110,039
NATL-COOP	348,268	534,449	0	0	0	0	186,181
NAVAJO	389,534	392,486	72,432	0	0	0	2,952
NEW-EDGINGTON	602,457	520,449	255,668	0	0	82,008	0
NEW-ENGL-PETRO	0	682,755	0	682,755	0	0	682,755
NEWHALL	159,040	136,516	-6,016**	0	0	22,524	0
NEWMAN	0	12,088	0	12,088	0	0	12,088
NORTHEAST-PETRO	0	428,225	0	428,225	0	0	428,225
NORTHLAND	55,758	154,777	0	0	0	0	99,019
NORTHVILLE	0	82,303	0	82,303	0	0	82,303
OKC	197,909	264,285	0	0	0	0	66,376
OXNARD	34,933	-27,106	-52,635*	0	0	62,039	0
PASCO	0	-39,021	-39,021**	0	0	39,021	0
PATCHOGUE	0	54,146	0	54,146	0	0	54,146
PENNZOIL	777,576	516,026	0	0	0	261,550	0
PESTER	75,406	253,802	0	0	0	0	178,396
PETRO-HEAT-CT	0	19,548	0	19,548	0	0	19,548
PETRO-HEAT-PA	0	15,646	0	15,646	0	0	15,646
PHILLIPS	2,793,249	2,586,120	0	0	0	207,129	0
PHILLIPS-PR	0	173,506	17,403*	156,103	0	0	173,506
PIONEER	21,125	155,038	0	0	0	0	133,913
PITTSTON	0	370,804	0	370,804	0	0	370,804
PLACID	318,083	316,660	0	0	0	1,423	0
PLATEAU	166,006	186,698	0	0	0	0	20,692
POWERINE	35,679	374,143	0	0	0	0	338,464
PRIDE	181,948	279,917	0	0	0	0	97,969
PRINCETON	4,562	163,716	0	0	0	0	159,154
QUAKER-ST	42,248	235,836	0	0	0	0	193,588
RICHARDS	767	136,225	0	0	0	0	135,458
ROAD-OIL	0	21,627	0	0	0	0	21,627

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
ROCK-ISLAND	436,843	394,533	-25,276**	0	0	42,310	0
SABER-TEX	24,802	169,356	0	0	0	0	144,554
SABRE-CAL	215,413	215,413	121,568	0	0	0	0
SAGE-CREEK	3,325	4,652	0	0	0	0	1,327
SAN-JOAQUIN	326,030	375,965	208,467*	0	0	0	49,935
SEMINOLE	15,129	148,863	0	0	0	0	133,754
SHELL	11,761,916	8,389,336	0	0	0	3,372,580	0
SIGMOR	3,158	101,091	0	0	0	0	97,933
SIMON-OIL	0	6,028	0	6,028	0	0	6,028
SO-HAMPTON	63,862	197,475	0	0	0	0	133,613
SOHIO	1,721,829	3,219,028	0	0	0	0	1,497,199
SOMERSET	35,265	64,202	0	0	0	0	28,937
SOUND	103,656	118,913	0	0	0	0	15,257
SOUTHLAND	373,277	306,046	88,770**	0	0	67,229	0
SOUTHWESTERN	97,625	85,610	0	0	0	12,015	0
SPRAGUE	0	190,439	0	190,439	0	0	190,439
STEUART	0	144,322	0	144,322	0	0	144,322
SUNLAND	-60,734	8,907	-91,639	0	0	0	69,641
SUNOCO	6,260,645	4,757,970	0	115,415	0	1,502,675	0
SWANN	0	2,891	0	2,891	0	0	2,691
TENNECO	969,186	661,134	0	0	0	308,052	0
TESORO	1,006,554	671,775	0	0	0	334,779	0
TEXACO	8,472,337	8,289,896	0	674,234	0	182,441	0
TEXAS-AMERICAN	21,563	129,857	0	0	0	0	108,294
TEXAS-ASPH	24,246	84,832	0	0	0	0	60,586***
TEXAS-CITY	537,422	669,149	0	0	0	0	131,727
THAGARD	661,017	661,017	385,575	0	0	0	0
THRIFTWAY	34,215	39,726	0	0	0	0	5,511
THUNDERBIRD	124,155	155,442	0	0	0	0	31,287
TONKAWA	24,654	90,667	0	0	0	0	66,013
TOSCO	1,855,601	2,028,676	562,081	0	0	0	173,075
TOTAL-PETROLEUM	239,328	366,852	0	0	0	0	127,524
TRANS-OCEAN	0	127,580	0	0	0	0	127,580
UCC-CARIBE	0	80,264	0	80,264	0	0	80,264

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
UNION-OIL	5,285,551	3,542,211	0	72,669	0	1,743,340	0
UNION-PETRO	0	154,876	0	154,876	0	0	154,876
UNTD-IND	3,390	52,810	0	0	0	0	49,420
UNTD-REF	170,687	412,543	0	0	0	0	241,856
US-OIL	19,797	195,101	0	0	0	0	175,304
USA-PETROCHEM	31,742	178,431	0	0	0	0	146,689
VICKERS	328,486	574,356	0	0	0	0	245,870
VULCAN	57,855	209,332	0	0	0	0	151,477
WALLACE	0	11,110	0	11,110	0	0	11,110
WALLER	0	19,771	0	19,771	0	0	19,771
WARRIOR	46,168	42,269	11,808	0	0	3,899	0
WELLEN	0	60,470	0	60,470	0	0	60,470
WEST-COAST	40,904	57,496	0	0	0	0	16,592
WESTERN	104,847	150,097	0	0	0	0	45,250
WHALECO	0	9,700	0	9,700	0	0	9,700
WINSTON	136,421	206,562	0	0	0	0	70,141
WIREBACK	0	830	0	0	0	0	830
WITCO	82,891	202,984	0	0	0	0	120,093
WYATT	0	51,613	0	51,613	0	0	51,613
YETTER	0	1,392	0	0	0	0	1,392
YOUNG	120,756	120,756	41,917	0	0	0	0
TOTAL	142,453,667	142,453,667	2,840,236	6,591,466	0	23,496,788	23,496,788

* Reflects a correction to a prior month's report.

** Reflects adjustments for 1975 exceptions relief as provisionally modified by FEA pending agency review consistent with court order. For discussion, see December entitlement notice, 42 F.R. 12133 (March 2, 1977).

*** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc.77-14403 Filed 5-18-77;8:45 am]

Federal Register

MONDAY, MAY 23, 1977

PART VII

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

■

GUARANTEED LOAN PROGRAMS

Emergency Livestock Loan

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Parts 1845 and 1980]

[FmHA Instruction 449.1]

GUARANTEED LOAN PROGRAMS

Emergency Livestock Loan

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Admin istration (FmHA) proposes to amend its Emergency Livestock regulations to allow portions of guaranteed Emergency Livestock loans to be sold in the secondary market. This amendment is intended to enable lenders to make more guaranteed loans from the funds received from secondary market sales.

DATES: Comments must be received by June 22, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

James E. Lee (202-447-6257).

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) of the Department of Agriculture proposes the addition of new Subpart C of Part 1980, Chapter XVIII of Title 7, Subchapter N, "Other Loan Programs," in the Code of Federal Regulations. The proposed addition of Subpart C, "Emergency Livestock Loans," (§§ 1980.201-1980.300) of this Part 1980 redesignates, consolidates and revises those regulations concerning Emergency Livestock Loans under the guaranteed loan program. Much of new Supart C was taken from various sections of Subchapter D, Guaranteed Loans: Part 1845, "FmHA Emergency Livestock Line of Credit Guarantees," published at 40 FR 30623, and amended at 41 FR 7494, 41 FR 39005. The major changes will:

1. Transfer and revise those provisions of Part 1845 pertaining to the line of credit guarantees for farmers and ranchers primarily engaged in substantial livestock operations and update the regulations to implement the provisions of Pub. Law 94-517 enacted October 15, 1976.

2. Incorporate secondary marketing procedures and agreements contained in Subpart A of Part 1980 and published at 41 FR 47462.

As proposed, Subpart C of Part 1980 as revised, transferred and redesignated is set forth below:

PART 1980—GUARANTEED LOAN PROGRAM

SUBPART C—EMERGENCY LIVESTOCK LOANS

Sec.

1980.201 Introduction.
1980.202-1980.206 [Reserved]
1980.207 Definitions.
1980.208 Program objective.
1980.209 Eligible lenders.
1980.210 Case and identification (ID) numbers.
1980.211-1980.214 [Reserved]
1980.215 Types of guarantees.
1980.216 Full faith and credit.
1980.217 Guarantee limits.
1980.218-1980.219 [Reserved]
1980.220 Eligibility.
1980.221 Loan purposes.
1980.222 Prohibited loan purposes.
1980.223 Limitations and special provisions.
1980.224 Loan rates and terms.
1980.225 Collateral requirements.
1980.226 Promissory notes, security instruments, and financing statements.
1980.227 Relationship with other FmHA Insured or guaranteed loans.
1980.228 Charges and fees by lender.
1980.229-1980.245 [Reserved]
1980.246 Receiving and processing applications.
1980.247 FmHA evaluation of applications.
1980.248 County committee review.
1980.249 Review of requirements.
1980.250 Conditions precedent to insurance of the guarantee.
1980.251 Issuance of guarantee instruments.
1980.252-1980.259 [Reserved]
1980.260 Substitution of lenders.
1980.261-1980.268 [Reserved]
1980.269 Extension of guarantees issued before December 20, 1976.
1980.270 Changeover of loans covered by 80 percent loss guarantees to line of credit guarantees without sale to holder(s).
1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by supart A of Part 1980.
1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the loan note guarantee system.
1980.273-1980.276 [Reserved]
1980.277 Change from livestock to farming operation after guarantee is issued.
1980.278 Transfer and assumption of loans.
1980.279 Loan servicing.
1980.280 Protective advances.
1980.281 Termination of guarantees.
1980.282 Defaults by borrower.
1980.283 Liquidation.
1980.284-1980.289 [Reserved]
1980.290 Graduation.
1980.291 Appeal procedure.
1980.292 Access to records of lender.
1980.293 County and State Office files.
1980.294 FmHA Forms.
1980.295-1980.299 [Reserved]

APPENDIXES A, B, C, D, E, and F—FmHA Forms.

AUTHORITY: Sec. 10 of Pub. Law 93-357, 88 Stat. 392; delegation of authority Secretary of Agriculture (7 CFR 2.23); delegation of authority by Assistant Secretary for Rural Development (7 CFR 2.70).

Subpart C—Emergency Livestock Loans

§ 1980.201 Introduction.

(a) *Policy.* This Subpart contains regulations for making and servicing Emergency Livestock (EL) loans and applies to lenders, holders, borrowers, Farmers Home Administration (FmHA) personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. In addition, Subpart A applies to EL loans only to the extent that sections of Subpart A are specifically referred to in this Subpart C.

(b) *Program administration.* This program like other FmHA programs is administered by the FmHA Administrator through the State Director serving each State through the District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for guarantee processing and servicing activities even though this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative provisions.* Throughout this regulation there appear administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program and are identified as "Administrative" and follow the appropriate sections of this Subpart.

§ 1980.202-1980.206 [Reserved]

§ 1980.207 Definitions.

The following general definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of Subpart A, except that those contained in § 1980.6(a) (2), (4), (7), (9), (13), and (14) are not applicable to cases in which a lender requests a Contract of Guarantee.

(a) *Act.* The Emergency Livestock Credit Act of 1974 (Pub. L. 93-357); as amended by Pub. Law 94-35, and Pub. Law 94-517.

(b) *Applicant.* The person or entity carrying on the farming or ranching operation and desiring EL loan assistance from a lender.

(c) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA.

(d) *Guaranteed line of credit.* EL loan advances made and serviced by a lender subject to a maximum amount agreed to by the lender and FmHA which is specified in a Form FmHA 449-27, "Contract of Guarantee (Emergency Livestock Loan)."

(e) *Livestock.* The term "livestock" means beef cattle, dairy cattle, including

dairy cattle raised and maintained for the primary purpose of marketing dairy products, swine, sheep, goats, chickens, and turkeys.

(f) *Loan.* This term includes both a fixed amount loan to which a Loan Note Guarantee will be attached and an advance(s) made pursuant to a line of credit guaranteed by a Contract of Guarantee.

(g) *Loan servicing.* All actions that are necessary after loan closing to collect the indebtedness and to protect the security and security rights. The term "servicing" also includes transfer and assumption and liquidation.

(h) *Mortgage.* The term "mortgage" includes any form of instrument used to obtain a security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to the instrument granting any security interest in chattel property.

(i) *Protective advances.* Payments made by the lender to third parties to protect or preserve security property.

(j) *Security.* The term "security" (sometimes referred to as collateral or security property) includes any rights or interests in property of any kind subject to a real or personnel property lien.

(l) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, machinery and equipment serving as security and crops when crops are the only security.

(2) *Normal income security.* All normal income security property planned to be marketed in the regular course of business unless, liquidation is approved. If liquidation is approved, such security becomes basic security.

(k) *State.* Any of the fifty States, Puerto Rico, or the Virgin Islands.

(l) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, and the Virgin Islands, as appropriate in the context in which the term is used.

§ 1980.208 Program objective.

The basic objective is to make more credit available during the period authorized by Pub. Law 93–357 as amended (authority expires September 30, 1978), in the form of loans guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial livestock operations, so that they may continue their normal farming or ranching operations.

§ 1980.209 Eligible lenders.

See § 1980.13 of Subpart A except that in Contract of Guarantee cases, the form that will apply in §§ 1980.13 (g) and (h) will be Form FmHA 449–38.

§ 1980.210 Case and identification (ID) numbers.

Refer to § 1980.12 of Subpart A.

§ 1980.211—1980.214 [Reserved]

§ 1980.215 Types of guarantees.

(a) *Loan note guarantee.* Lenders desiring to sell the guaranteed portion of fixed amount loans may use the method contained in Subpart A. In accordance with that method, loans may be made by a lender and guaranteed by issuance of Form FmHA 449–34, "Loan Note Guarantee," or

(b) *Contract of guarantee.* Lenders desiring a guarantee on a "line of credit" may use the method contained in this Subpart C. Line of credit loans are guaranteed by Form FmHA 449–27, "Contract of Guarantee." The amount of loan advances outstanding at any one time under a Contract of Guarantee may not exceed the line of credit ceiling set forth in the contract.

(c) Neither a Loan Note Guarantee nor a Contract of Guarantee will be executed after September 30, 1978.

§ 1980.216 Full faith and credit.

The Loan Note Guarantee and Contract of Guarantee constitute obligations supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purchase in Loan Note Guarantee cases will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee and Contract of Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

§ 1980.217 Guarantee limits.

The maximum loss covered under the Form FmHA 449–34, "Loan Note Guarantee," or Form FmHA 449–27, "Contract of Guarantee", will not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note(s) or assumed under an assumption agreement. Lenders and applicant will propose the percentage of guarantee. The lender and applicant will be informed in writing on Form FmHA 449–14 or Form FmHA 449–15 by FmHA of any percentage of guarantee less than proposed by the lender and applicant, and the reason therefor. FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to those provisions contained in paragraphs (a), (b), (c), (d), and (e) of § 1980.20 of Subpart A.

§§ 1980.218–1980.219 [Reserved]

§ 1980.220 Eligibility.

To be eligible for an EL loan, an applicant must:

(a) *Citizen.* Be a citizen of the United States or a person who has been legally admitted for permanent residence in the United States. If a partnership, the principal partners must be citizens or such permanent residents of the United States. If a corporation, it must be incorporated under the laws of the United States, its principal stockholders must be citizens or such permanent residents of the United States, and the corporation must be authorized to carry on farming or ranching operations in the State in which the EL operation is being conducted. See § 1980.207 for definition of "State" and "United States." Any partner or stockholder owning or controlling as much as 20 percent interest in a partnership or corporation will be considered a principal partner or stockholder. If no person owns or controls as much as 20 percent, all partners and stockholders will be considered principal partners or stockholders.

(b) *Bona fide farmer or rancher.* Be a bona fide farmer or rancher (owner-operator, or tenant), (1) doing business in the United States either as an individual, corporation, or partnership, which is recognized in the community as one whose chief occupation is farming or ranching, (2) primarily and directly engaged in agricultural production, and (3) having substantial operations in breeding, raising, fattening, or marketing livestock, including dairy cattle raised and maintained for the primary purpose of marketing dairy products (hereinafter referred to as a livestock operation). In the case of an individual loan applicant the term "primarily and directly engaged in agricultural production" means that he derives more than 50 percent of his gross income from his own agricultural production or devotes more than 50 percent of his time to such production. The term "substantial operations in livestock" means that he derives not less than 25 percent of his gross farm income from his own livestock operation, or devotes not less than 25 percent of his time to such operation, or has not less than 25 percent of his total capital investment in such operation. In the case of a corporation or partnership loan applicant, the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and the shareholders or partners owning or controlling a majority interest in such corporation or partnership derive more than 50 percent of their gross income from their own or the corporation's or partnership's agricultural production, and devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or has not less than 25 percent of its total capital investment in such operation.

(1) Bona fide farmers and ranchers must be actually engaged in the livestock operations to be financed by the EL loan. If the applicant is an individual, he must manage such livestock operation. If the applicant is a partnership or corporation,

it must be managed by one or more of the partners or stockholders. An applicant who does not devote full time to the livestock operation may be considered the manager provided he (or the managing partners or stockholders) visits the farm at sufficiently frequent intervals to exercise control and see that the livestock operation is being carried on properly. Any livestock operation that involves a full-time hired manager or management service does not qualify irrespective of the number of visits made by the partners or stockholders. In addition, bona fide farmers or ranchers do not include those commencing livestock operations or reentering such operations after July 25, 1974, or those engaged in farming ranching, or livestock operations as a hobby or for tax shelter purposes; or those chiefly engaged in other business or employment.

(2) An applicant conducting livestock operations as an individual in different counties or locations may be considered for more than one EL guarantee when more than one lender is involved, if each lender is financing a separate enterprise, provided (a) identifiable separate security is given to each lender and (b) the combined total principal balance outstanding at any one time on guaranteed loans for all lenders involved does not exceed $350.000.

(3) Individual members of a partnership, or individuals doing business jointly or as partners, will not receive individual loans to finance their interest in the joint or partnership livestock operation. The partnership or joint operation will be considered for one loan to cover the livestock operation being conducted jointly or as a partnership.

(4) An estate or trust: a corporation owned primarily by an estate, trust. other corporations, or other partnerships; a partnership composed primarily of an estate. trust, corporation or other partnership; or an applicant operating under an order of a bankruptcy court, is not considered to be a bona fide farmer or rancher for EL loan purposes.

(c) *Legal capacity.* Possess legal capacity to contract for the loan.

(d) *Ability and experience.* Possess the ability, industry, and experience necessary to carry out the proposed livestock operations to assure a reasonable prospect of success with the assistance of the loan, and honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(e) *Credit elsewhere.* Certify that he is unable to obtain financing without the guarantee. Furthermore, no loan shall be guaranteed unless the lender certifies that the lender is unwilling to provide the needed credit to the applicant without the guarantee.

(f) *Change in the form of an applicant.* Have conducted its livestock operations before July 25, 1974. A change in the form of an applicant from an individual, partnership, or corporation in existence before July 25, 1974, to another form of legal entity will not disqualify the new entity if it is conducting basically the same operation as was conducted before July 25, 1974, and is primarily owned by substantially the same people that owned the operation before July 25, 1974. If the change in the legal entity has been accompanied by a substantial change in the type(s) of livestock, it will not be financed.

(1) When an individual that was engaged in a livestock operation before July 25, 1974, later forms a partnership or corporation which continues to carry on basically the same livestock operation, the operation's application may still receive consideration provided such individual owns at least 50 percent of the new partnership assets or corporation's voting stock and continues to manage or control the livestock operation.

(2) When a partnership that was engaged in a livestock operation before July 25, 1974, later dissolves but basically the same livestock operation is continued an application from the new legal entity may receive consideration provided:

(i) The assets of the prior partnership are now owned by an individual applicant who as a partner in the prior partnership had owned at least 50 percent of the partnership assets; or

(ii) The assets of the prior partnership are now owned by a new partnership applicant and the partners who had owned at least 50 percent of the assets of the prior partnership are now partners owing at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the prior partnership are now owned by a new corporation applicant, and the partners of the prior partnership who had owned at least 50 percent of those assets now own at least 50 percent of the voting stock of the new corporation applicant.

(iv) One or more of the partners who managed the livestock operation for the prior partnership must now manage the operation for the applicant.

(3) When a corporation that was engaged in a livestock operation before July 25, 1974, dissolves but basically the same livestock operation is continued, the application from the new legal entity may receive consideration provided:

(i) The assets of the dissolved corporation are now owned by an individual who had owned at least 50 percent of the voting stock of the former corporation;

(ii) The assets of the former corporation are now owned by a new partnership applicant and the stockholders who had owned at least 50 percent of that corporation are now partners owning at least 50 percent of the assets of the new partnership applicant;

(iii) The assets of the former corporation are now owned by a new corporation applicant and the stockholders who had owned at least 50 percent of the voting stock of the former corporation are now stockholders owning at least 50 percent of the voting stock of the new corporation applicant.

(iv) One or more of the stockholders who managed the livestock operation for the prior corporation must now manage the operation for the new applicant.

§ 1980.221 Loan purposes.

EL loans may be guaranteed for purposes which are essential to carrying on livestock operations related to breeding, raising, fattening, or marketing livestock. These purposes are:

(a) Purchase of livestock for replacement or restocking purposes, but not to permit expansion of livestock operations beyond a level (represented by numbers of livestock) equal to the highest level reached during the eighteen months immediately preceding July 25, 1974. When operations have been expanded beyond that level, the cost of financing the total operation will be determined and a percentage of this amount equal to the current number of livestock in the applicant's operation divided into the highest 18 month livestock number level will be used in arriving at the amount of EL loan.

(b) Purchase or production of livestock feed.

(c) Payment of customary and equitable charges for grazing permits and for the use of farm or ranch buildings, pasture land, and land for the production of feed crops.

(d) Hire, repair, or replace fixtures, farm machinery, and equipment necessary for livestock production and marketing.

(e) Transportation of livestock, normally incurred in the livestock operation.

(f) Building or repair of fences and holding pens.

(g) Refinancing of secured and unsecured debts incurred for the livestock operation, when:

(1) Such refinancing is essential for the applicant to remain in business.

(2) The lending agency would not refinance the loan in the absence of a guarantee, and

(3) The lending agency is not currently refinancing similar loans to others without such a guarantee.

(h) Payment of real estate or personal property taxes and water or drainage taxes or assessments that must be paid to permit continuation of the livestock operation.

(i) Payment of premiums on insurance necessary to obtain or secure the loan.

(j) Repair or essential improvement of livestock water supplies, and providing any pollution abatement facilities which are necessary to comply with requirements of § 1980.40 of Subpart A.

(k) Repair of existing irrigation systems necessary for livestock production.

(l) Payment of veterinary fees and charges for livestock medicines.

(m) Cost of hired labor used in livestock production.

(n) Cost of construction or repair and normal maintenance of farm and ranch buildings essential to continuance of the authorized level of operation including silos and other feed storage facilities necessary for livestock production.

(o) Purchase of fuel, seed, fertilizer, insecticides, farm supplies, and payment of other operating expenses that are essential to continuation of the livestock operations.

(p) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(q) Payment of a loan fee and costs incident to consummation of the loan as authorized in § 1980.228.

(r) Payment of essential family living expenses.

(s) Payment of not more than 1 year's installment(s) (principal and interest) on debts secured by liens on chattels or real estate related to the livestock operation when a deferment on such obligations cannot be obtained.

§ 1980.222 Prohibited loan purposes.

No EL loan may be guaranteed which will:

(a) Establish or reestablish an applicant in livestock operations or to permit an expansion of such operations beyond the level set forth in § 1980.221(a).

(b) Be used to finance livestock or poultry feeding operations when the applicant does not maintain ownership of the feeders through the normal feeding period or is only performing a service for others.

(c) Be used to finance or refinance any thing not essential to the continuation of livestock enterprise.

(d) Be used by a landlord to furnish credit, equipment, or supplies to his tenant operators, whether share, cash, or standing rent is paid by the tenant.

(e) Enable an applicant to make major changes or adjustments in his livestock operation.

(f) Be used to pay Federal or State income taxes or to pay Social Security taxes payable by the borrower in his own behalf.

(g) Be used to pay for labor performed by the borrower or members of his immediate family.

(h) Be used to purchase passenger automobiles or any other vehicles, machinery, or equipment that is not essential to the livestock operation.

(i) Be used to purchase machinery or equipment, or for supplies or labor, which will be used in the handling, processing, or marketing of livestock products such as milk, eggs, wool, and mohair. However, this does not prohibit refinancing debts which have already been created for these purposes when they are part of an "overall" livestock operation indebtedness being refinanced with an EL loan under the conditions set forth in § 1980.221(g).

§ 1980.223 Limitations and special provisions.

(a) Total loans to applicants. The total principal balance outstanding at any one time on an EL loaon(s) made to assist a livestock operation shall not exceed $350,000. If an individual owns or controls 20 percent or more of a corporation or partnership and they are engaged in the same or different livestock operations, or if an individual owns or controls less than 20 percent of a corporation or partnership and they are engaged in the same livestock operations, the individual and the corporation or partnership will be considered as one entity for application of the $350,000 ceiling. If an individual owns or controls less than 20 percent of a corporation or partnership and the individual and corporation or partnership are engaged in separate livestock operations, the individual and the corporation or partnership will be considered as separate entities for application of the $350,000 ceiling.

(b) *County Committee certification.* A County Committee certification is required for an eligibility certification and approval of an EL loan for a fixed amount or a line of credit ceiling. See Section 1980.248.

§ 1980.224 Loan and terms.

(a) *Interest rate to borrower.* The interest rate to be paid by the borrower to the lender will be any legal rate agreed upon between the lender and the borrower. It may be a variable or fixed rate.

(b) *Variable interest rate.*

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed upon by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will no floor or ceiling on variable interest rates.

(2) Any change in the interest rate between the date of issuance of the Form FmHA 449-14 or Form FmHA 449-15 and before the issuance of the Loan Note Guarantee or Contract of Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449-14, or Form FmHA 449-15.

(3) It is permissible to have one interest rate on the guaranteed portion of the loan nad another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree and:

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion. Fixed and variable interest rates cannot be used on the same loan.

(4) When multi-rates are used the lender will provide FmHA with the overall effective interest rate for the entire loan.

(c) *Loan terms for Loan Note Guarantee, and Contract of Guarantee.* Each loan will be scheduled for repayment over a period not to exceed 7 years from the date of the guarantee or such shorter period as may be necessary to assure that the loan will be adequately secured. The borrower's needs, repayment ability and type of security he has to offer will be taken into consideration when scheduling loans for repayment. Generally, amounts advanced for annual recurring operating expenses should be scheduled for repayment from that year's income. Use of a note with a "payment on demand" feature is not permissible.

(d) *Repayment schedules.* In order for notes to be acceptable to holders in Loan Note Guarantee cases, the principal and interest repayment schedules will have to be clearly shown in the note(s).

(e) *Advances under a Contract of Guarantee—line of credit.* Prior to September 30, 1978, a lender may pay off an outstanding guaranteed advance before the end of its term with funds from a new guaranteed advance, provided the line of credit ceiling is not exceeded. However, no advance may be made for a term which exceeds the period remaining in the original line of credit term. The original line of credit term may be up to seven years, but it is limited to the term established in the "Line of Credit Agreement." After September 30, 1978, no new advances may be made, but advances outstanding at that time may be renewed with FmHA consent at the end of the original term for a period not exceeding three additional years as set forth in § 1980.224 (f) below.

(f) *Renewal authority.* When a lender determines that a renewal will assist in orderly collection of an EL loan which has reached the final maturity date, it may renew notes covering such loan one time only and not for more than 3 additional years, *provided* the lender and FmHA agree That: (1) The borrower meets the eligibility and security requirements for an initial loan as contained in §§ 1980.220 and 1980.225, and (2) the renewal will not be used in lieu of liquidation. Such renewal may not exceed 3 years from the date of the renewal. Renewal will be accomplished by obtaining a replacement note setting forth the new repayment schedule. Any renewal must be approved in writing by FmHA and when a Loan Note Guarantee is renewed, by any holder(s).

§ 1980.225 Collateral requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and the applicant's prospective earnings. Collateral may include, but is not limited to, the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compen-

sating balances or certificates of deposit as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from principal stockholders in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) The requirements for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) *Guarantors of applicants will:* (i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) Provide written evidence through the lender to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Security.* (1) The security property must be adequate in the opinion of the lender and FmHA to assure repayment of each loan. If the present market value of the security is not in an amount at least equal to the amount of the loan and the lender and FmHA agree, the applicant's repayment ability may be considered as security, provided:

(i) Such security property has depreciated in value due to temporary economic conditions;

(ii) The applicant's first full year's operating plans indicate ability to pay the loan in full in a period not exceeding 7 years, and;

(iii) The applicant will give a lien on all available security property.

(2) Any extension of credit by the lender on or after October 1, 1978, will be outside the guarantee and, if it is to be secured, the lien position must be junior to any liens taken for the guaranteed EL advances or by a lien on other collateral.

(3) *Separate loans.* When the same lender is involved in an EL guaranteed loan and a separate loan and there will be like security for each, the EL guaranteed loan must be adequately secured by (1) a lien on separate security property that is clearly identifiable, or (2) a lien of a higher priority if the same property is used to secure both loans. In the latter case when the same security secures both loans the lender must agree in writing that the scheduled installments on the EL guaranteed loan will be paid first.

(4) *Escrow accounts.* The use of escrow accounts by lenders to maintain ongoing livestock operations after the September 30, 1978, cutoff may continue provided any funds placed in such an account are assigned as collateral for the guaranteed loan made by the lender and provided further that the security and lien position of such loan is maintained.

(d) *Other requirements.* (1) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

Administrative: The County Supervisor will review and determine whether the Lender has required the necessary security to be taken. If necessary, he will seek the advice and assistance of the District Director.

§ 1980.226 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its forms or promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this regulation or Subpart A.

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) That "disposition of the collateral is not authorized hereby."

§ 1980.227 Relationship with other FmHA insured or guaranteed loans.

If an applicant for FmHA assistance will qualify for another type or types of FmHA insured or guaranteed loans and an EL guarantee for the same purpose, it will be the policy to process an EL guarantee for that purpose if the repayment and security requirements for the EL guarantee will not preclude furnishing the credit necessary to enable the applicant to carry on sound farming or ranching operations. However, if the applicant qualifies for an Emergency (EM) loan in a designated disaster area, he should be first considered for an EM loan. An EL guarantee may be processed to continue his livestock operation(s) even though the applicant receive an EM loan.

§ 1980.228 Charges and fees by lender.

For both Loan Note Guarantee and Contract of Guarantee cases, see § 1980.22 of Subpart A for these requirements.

§ 1980.229—1980.245 [Reserved]

§ 1980.246 Receiving and processing applications.

Applicant and/or lenders may file either a preliminary application or complete application. A preliminary application may be used when applicant or lender wants a determination from FmHA on eligibility, feasibility or availability of guaranteed authority before proceeding with a completed application. The County Supervisor will cooperate with the lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lenders experience with FmHA gauranteed loan processing, the lender's farm lending experience, and the complexity of the proposal. The lender and applicant should contact the local FmHA office serving the area where the livestock operation is conducted for guidance and assistance in preparing the request and for obtaining the guarantee. The County Supervisor will provide copies of all applicable FmHA forms and regulations. See "Appendix A" for list of these FmHA forms.

(a) *Preliminary application.* This will consist of:

(1) Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Credit report.

(4) Form FmHA 440-32, "Request for Statement of Debts and Collaterals."

(5) Form FmHA 449-26, "Certificates of Lender and Loan Applicant."

(6) Form FmHA 449-25, "Request for Guarantee (Emergency Livestock Loan)".

(7) A record of livestock production for each calender year beginning with 1973 through the most recent completed calender year.

(8). Proposed "Line of Credit Agreement" for Contract of Guarantee cases. See § 1980.246 (c) (4).

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or the applicant appears to be inelegible, or funds or guarantee authority are not available the County Supervisor will so inform the lender using Form FmHA 449–13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the applicant is eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing and request the formal application be prepared.

(c) *Completed application.* This will consist of:

(1) Those items listed in § 1980.246 (a).

(2) Applicable items required by §§ 1980.40; 1980.41; 1980.42; 1980.43; 1980.44 and 1980.45 of Subpart A of this Part.

(3) A copy of the lease agreement between tenant applicants and their landlords. When a lease is not obtainable a statement will be included in the loan docket.

(4) Proposed loan agreements (or line of credit agreement when a Contract of Guarantee is requested) between the borrower and lender. (See paragraph VIII of Form FmHA 449–35, "Lender's Agreement", in Loan Notice Guarantee cases or Form FmHA 449–38, "Lender's Agreement (Emergency Livestock Loan—Contract of Guarantee)", in Contract of Guarantee cases. Ordinarily, agreements will include information such as the following:

(i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividened payments if a corporate entity.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers and/or owners if applicant is a corporation or partnership.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances of a corporate entity.

(xi) Repayment schedule for the loan, including for line of credit agreements, the ceiling and duration of the line of credit.

(xii) Purposes for which loan funds can be used.

(xiii) Interest rate.

(5) Appraisal report. (i) Real estate or chattel property that will serve as collateral for loans will be appraised by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales. Appraisal reports may be on forms approved by the lender and/or Form FmHA 422–1, "Appraisal Report (Farm Tract)" and Form FmHA 440–21, "Appraisal of Chattel Property." However, for real estate security, an acceptable appraisal not over 3 years old may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or another similarly qualified appraiser.

(ii) A current chattel appraisal will be required when chattels are taken as security.

(iii) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(6) Notices of compliance with the Privacy Act of 1974. (i) If the applicant is acting in a personal capacity and not as a representative of a partnership, or corporation, and FmHA solicits personal information from him, the individual will be provided Form FmHA 410–9, "Privacy Act Statement to References."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

§ 1980.247 FmHA evaluation of applications.

When the County Supervisor receives a completed application, he will make the proper independent investigations, inspections, and appraisal reviews necessary to determine whether the applicant is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, and there is sufficient collateral and equity. The County Supervisor's determinations will be recorded on Form FmHA 449–23, "Guaranteed Loan Evaluation."

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved (for reasons that would not be affected by the County Committee certification), the County Supervisor will inform the lender on Form FmHA 449–13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the County Office file.

(b) *Indication of acceptability.* If the evaluation indicates that the guarantee may be approved, the County Supervisor will present the application to the County Committee for certification or rejection.

ADMINISTRATIVE

The County Supervisor will: (1) Determine if the material and information submitted is complete. If he determines that the lenders appraisal(s) of security property is inadequate or questionable, he will make a formal appraisal of the required security property. (2) Determine that the supporting items and forms listed in §§ 1980.40 through 1980.45 of Subpart A of this Part are a part of the application and the conditions of each section are being complied with when applicable. (3) Review Form FmHA 449–10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of 1901–G.

§ 1980.248 County Committee review.

The County Committee will review the application and determine whether the applicant meets the FmHA eligibility requirements.

(a) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the lender of the reasons for the rejection using Form FmHA 449–13, "Denial Letter."

(b) *Certification.* If the County Committee finds the applicant eligible, it will prepare Form FmHA 440–2, "County Committee Certification or Recommendation". This form will be retained in the County Office file.

ADMINISTRATIVE:

(A) *After County Committee certification is obtained, the County Supervisor will:* (1) Prepare Form FmHA 449–14, "Conditional Committment for Guarantee," for Loan Note Guarantee cases; or Form FmHA 449–15, "Conditional Committment for Emergency Livestock Loan Guarantee," for Contract of Guarantee cases. If it is within his approval authority, he will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender. The County Supervisor is authorized to execute Form FmHA 449–14 and Form FmHA 449–15. (2) Prepare and distribute Form FmHA 440–1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." When the County Supervisor receives notice that funds have been obligated, he will notify the lender by providing him a copy of Form FmHA 449–14 or Form FmHA 449–15 as appropriate. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office loan file. (3) Determine if the operation is located in a special flood or mudslide hazard area. (Refer to Subpart B of Part 1806 of this Chapter, FmHA Instruction 426.2.) (4) Assure that equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of Subpart A). (5) Contact the District Director if he needs any assistance. (6) Forward the loan docket to the appropriate approval official if above his approval authority.

(B) *The appropriate approval official within his authority whether County Supervisor, District Director or State Director will:* (1) Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in Form FmHA 449–14 or Form FmHA 449–15 and return the form to the County Supervisor for execution and proper distri-

bution. (2) Sign original and one copy of Form FmHA 440–1 distributing copies in accordance with the Forms Manual Insert being sure the lender receives a signed copy. (3) Forward the loan docket to the National Office when assistance in handling any complaints of noncompliance is needed.

§ 1980.249 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449–14 or Form FmHA 449–15 should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of his decision. If altered conditions are acceptable, Form FmHA 449–14 or Form FmHA 449–15 will be revised.

§ 1980.250 Conditions precedent to issuance of the guarantee.

Refer to § 1980.60 of Subpart A for condition precedent to the issuance of either a Loan Note Guarantee or a Contract of Guarantee except:

(a) The provisions of § 1980.60(a)(2) are not applicable to Loan Note Guarantee cases;

(b) The provisions of §§ 1980.60 (a)(2), and (d), are not applicable to Contract of Guarantee cases, and

(c) To meet the requirements of § 1980.60(c) in Contract of Guarantee cases, the lender will execute and deliver to FmHA Form FmHA 449–38.

ADMINISTRATIVE

The County Supervisor will: (1) Negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449–14 or Form FmHA 449–15. Any change in interest rate from the date of issuance of Form FmHA 449–14 or Form FmHA 449–15 must be approved by the State Director. A copy of the completed form and any amendments thereto will be included in the loan file. (2) Review the loan agreement or line of credit agreement between the borrower and lender. It should provide for the frequency of submission of financial statements to the County Supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required. (3) Review plans for inspection made on any construction projects. (4) Review cost overruns, if any, and how they will be met. (5) Review basic credit requirements of all loans.

§ 1980.251 Issuance of guarantee instruments.

Events from issuance of a conditional commitment through issuance of the guarantee instruments may all occur at loan closing in their proper sequence.

(a) *Loan note guarantee cases.* Refer to § 1980.61 of Subpart A, except that paragraphs § 1980.61(b)(2) and § 1980.61 (f) as well as the "guarantee fee" in paragraph § 1980.61(a) shall not apply.

(b) *Contract of Guarantee cases.* (1) If FmHA finds that all requirements have been met, FmHA will execute Form FmHA 449–38. The original will be delivered to FmHA and a signed duplicate original retained by the lender. There will be a Form FmHA 449–38 executed for all lines of credit guaranteed by FmHA. The Lender's Agreement will be executed not later than the time the Contract of Guarantee is signed.

(2) Upon receipt of the form FmHA 449–38 and after all requirements have been met, FmHA will execute Form FmHA 449–27. An original will be provided to the lender. A conformed copy will be retained by FmHA.

(3) *Refusal to execute contract.* If FmHA determines that it cannot execute the Contract of Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449–13, "Denial Letter" of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(4) *Cancellation of obligations.* If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will prepare and submit to the Finance Office, Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation."

(c) *Authorized FmHA representatives to execute forms:* State Directors, District Directors, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, Contract of Guarantee, and Assignment Guarantee Agreement.

ADMINISTRATIVE

(A) The original Form FmHA 449–35 or Form FmHA 449–38 will be kept in the County Office. A copy may be retained in the State Office. (B) Copies of Form FmHA 449–34, and Form FmHA 449–27 will be kept in the County Office. Additional copies may be retained by the State Office. Copies of issued guarantees will be kept in each borrower's loan file. (C) For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued. (D) The County Supervisor completes Form FmHA 449–31, "Emergency Livestock Loan Analysis," executes the original and conforms the copies. This will be done on the same date the guarantee instrument is executed. The original will be sent to the Finance Office and a copy transmitted to the State Office. (E) *Time limitation.* The guarantee processing actions required for an EL loan will be completed within fifteen days if possible, but in no case more than thirty days after FmHA receives a lender's formal written request for an EL guarantee, unless unusual circumstances are involved. (F) *State office and finance office actions.* (1) *State office.* The State Director will maintain a daily record of all Forms FmHA 449–31 received. The record will provide the name of the borrower, his county code number, amount of loan or line of credit ceiling, and State subtotals. (2) *Finance office.* Upon receipt of Form FmHA 449–31, the Finance Office will charge the loan amount or line of credit ceiling (as appropriate for the type of guarantee) against any allocation for the particular state. At the end of each month, the Finance Office will report to each State Director a record of those forms received during the month by borrower name, case number, and amount of loan so the State Director can reconcile his records. The Finance Office will submit a State summary report on loan obligations to the National Office weekly.

§§ 1980.252–1980.259 [Reserved]

§ 1980.260 Substitution of lenders.

With prior FmHA written approval, a new lender may be substituted for the original lender in either Loan Note Guarantee cases or Contract of Guarantee cases provided the new lender agrees to assume all servicing responsibilities and acquires the unguaranteed portion of the loan. In Loan Note Guarantee cases, such substitution may be made without holders consent but not without notice to the holders by the substituted lender. The new lender will executive Form FmHA 449–35 for Loan Note Guarantee cases or Form FmHA 449–38 for Contract of Guarantee cases contemporaneously with the substitution. After FmHA approval of the new lender, Form FmHA 471–7, "Notice and Acknowledgment of Sale of Insured or Guaranteed Loan" will be completed by the old lender and mailed to the FmHA Finance Office.

§§ 1980.261–1980.268 [Reserved]

§ 1980.269 Extension of guarantees issued before December 20, 1976.

New loan advances to be made after December 31, 1976, will not be automatically covered by "line of credit" guarantees issued before December 20, 1976 under terms of the Emergency Livestock Credit Act of 1974, as amended by Pub. L. 94–35. Any advance(s) under these guarantees after December 31, 1976, requires an extension of the guarantee.

(a) When lenders desire to continue making new advances to borrowers indebted under a guarantee issued prior to December 20, 1976, it will not be necessary to issue a new contract of guarantee, provided the lender will certify in writing that:

(1) The borrower meets eligibility requirements including a statement that he (the lender) is unable to extend the additional credit without a guarantee,

(2) The outstanding balance is current,

(3) Collateral for the new advance(s) will be sufficient to meet EL security requirements,

(4) The borrower has reasonable repayment ability for the overall guaranteed indebtedness, and

(5) The advance(s) will be within the terms of the existing line of credit ceiling previously approved by FmHA.

(b) For cases meeting the criteria stated in § 1980.269(a) the County Supervisor will change the date "December 31, 1976," in the second line of item "a" of the existing Contract of Guarantee to "September 30, 1978," and initial the change. If the County Supervisor questions the proposal and needs supporting information in addition to that previously furnished by the lender, he will

obtain it before initialing the change in the Contract of Guarantee.

(c) When a lender desires to make advance(s) above the previously approved line of credit ceiling, or when the advance(s) will not be within the limits of the "Line of Credit Agreement," or the line of credit loan advances are not paid current, the above method will not be used. In such cases it will be necessary for the lender to prepare a completely new guarantee request with all the supporting forms and information required by this Subpart C for a Contract of Guarantee on a new line of credit. If the loan approval official determines that all the requirements for a new guarantee are met, the existing line of credit will be refinanced by the new line of credit, and a new Contract of Guarantee will be issued. To complete the transaction, the lender must surrender the previous Contract of Guarantee to the County Supervisor who will mail it to the Finance Office with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the previous contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit guarantee.

§ 1980.270 Changeover of loans covered by 80 percent loss guarantees to line of credit guarantees without sale to holder(s).

(a) When a lender desires to change from an 80 percent loss guarantee (one issued by FmHA prior to July 14, 1975) to a guarantee not exceeding 90 percent of unpaid principal and interest on a line of credit for a borrower who qualifies for this and other provisions of the Emergency Livestock Credit Act of 1974 as amended, the lender must prepare and present to FmHA a request for a new Contract of Guarantee. The unpaid balance on the existing loan will be refinanced by the new line of credit loan. The request must contain all the FmHA forms required for a new Contract of Guarantee on a line of credit. If the request is approved by the FmHA County Committee and loan approval official, a new Contract of Guarantee will be issued Form FmHA 449–27. The previous Contract of Guarantee (old Form FmHA 449–27) must be surrendered by the lender and mailed to the Finance Office by the County Supervisor with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the old contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit contract.

(b) The provisions of §§ 1980.246 through 1980.251 will be complied with.

§ 1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by Subpart A of Part 1980.

(a) Conversion does not constitute a new guarantee. Rather, the process is a substitution of documents which confer additional rights to lenders but does not change what is being guaranteed.

(b) Existing EL loans covered by 80 percent loss guarantees issued by FmHA before July 14, 1976 and existing advances constituting an EL guaranteed line of credit may be converted to Loan Note Guarantee loans and structured and sold according to Subparts A and C of this Part. The percentage guaranteed must be the same as the percentage guaranteed in the old guarantee.

(c) Before the Loan Note Guarantee system can be used, the Lender must notify FmHA of the option it has elected to use for sale of the guaranteed portion(s). Where necessary, existing notes must be constituted so that all regulations pertaining to the options found in *Paragraph III of Form FmHA 449–35* will be complied with.

(d) For conversion of existing 80 percent guaranteed EL loans of a fixed amount, if a new note(s) has to be issued in order to meet the requirements of Subparts A and C of this Part, the provisions of this new note(s) must be identical to the terms and conditions of the note(s) being retired.

(e) A conversion fee of 1 percent of the principal and interest owed on the loan at the time of the conversion must be paid by the Lender to FmHA before a Loan Note Guarantee will be issued.

(f) The Lender must certify in writing and FmHA must agree that the loan is in good standing and adequately secured.

(g) The lender's request for conversion will be transmitted to the County Supervisor with the following items:

(1) A narrative of the proposal.

(2) Original Contract of Guarantee.

(i) *Alternative procedure.* If the lender does not want to deliver his original Contract of Guarantee with his request for a conversion to a Loan Note Guarantee, the County Supervisor will accept a copy of the Contract of Guarantee and proceed as set forth above. However, the Loan Note Guarantee will be delivered only upon receipt of the Contract of Guarantee.

(3) Copies of note(s) with lender's identification number(s).

(4) Certification that the loan is current and in good standing.

(5) Certification of outstanding principal and interest owed on the loan account.

(6) Executed Lender's Agreement.

(7) Current market value appraisals of loan collateral.

ADMINISTRATIVE

(A) The County Supervisor may approve all conversions to Loan Note Guarantee. (B) The original loan must be paid current at the time the Loan Note Guarantee is issued. (C) The County Supervisor will: (1) Check to see that the note or notes presented by the Lender for sale in the Loan Note Guarantee system are structured to meet all requirements in the regulations. (i) If the Lender has selected the multinote system, the note representing the unguaranteed portion must not mature before the other notes. If the Lender is converting a line of credit represented by separate notes for each advance, these existing, partially amortized notes may be used provided that; if the notes have different maturities, the note with the latest matturity date must represent the unguaranteed portion. The amount represented by this note must be exactly the unguaranteed portion of the face amount of all notes composing the loan which is to be converted to the Loan Note Guarantee system. If both these requirements cannot be met, the Lender must get the borrower to execute new notes which do not exceed the limitations of the existing guaranteed line of credit. (ii) If the Lender has elected to sell the guaranteed portions through the assignment route, and is converting a line of credit, only one note may be presented for attachment to a Loan Note Guarantee. The face amount of the note must be equal to the entire amount of the loan. (2) Review all requirements of § 1980.27. (3) Arrange to inspect the livestock operation with the lender and the borrower. The inspection will include an observation of the farming or ranching facilities, any growing crops, and livestock and chattel security. (4) Reach a mutual understanding concerning the operating plans for the farming and ranching enterprises, plans for loan repayment, and the appraised value of the loan collateral. (5) Verify the submitted request and if in order complete the Loan Note Guarantee, and date and sign the instrument. Before the form is signed the following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of the Contract of Guarantee dated ----------." The County Supervisor will transfer from the outstanding Contract of Guarantee all pertinent information pertaining to the substitute Loan Note Guarantee. (6) Execute the Lender's Agreement either before or contemporaneously with execution of the Loan Note Guarantee. (7) Cancel the Contract of Guarantee being replaced. (8) Transmit to the lender the original of the Loan Note Guarantee, and a copy of the executed Lender's Agreement, and retain in the County Office file copies of the Loan Note Guarantee and attached cancelled forms. (9) Notify the Finance Office of the substitution and cancellation by letter enclosing the conversion fee collected from the lender. The notification will indicate the date and amount of the Loan Note Guarantee and that it is not to be considered as a new loan for record keeping purposes.

§ 1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the loan Note Guarantee system.

(a) Lenders with existing EL loans covered by 80 percent loss guarantees issued by FmHA before July 14, 1975, or with existing guaranteed EL lines of credit, who desire to obtain a Loan Note Guarantee without payment of the fee provided in Section 1980.271 may apply for a new Loan Note Guarantee under the regular procedure of Subpart C of this Part. All provisions including §§ 1980.246 through 1980.251 will be complied with. If all of the requirements of Subpart A and C of this Part are met, a new Loan Note Guarantee will be issued. The unpaid balance on the existing loan will be refinanced by the new loan guaranteed by the Loan Note Guarantee.

(b) The previous Contract of Guarantee must be surrendered by the lender and mailed to the Finance Office by the County Supervisor with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the old guarantee

is being replaced and that the Finance Office records should be adjusted to reflect only the new Loan Note Guarantee.

§§ 1980.273–1980.276 [Reserved]

§ 1980.277 Change from livestock to farming operation after guarantee is issued.

(a) When a borrower ceases to carry on a livestock operation, but will continue farming, he is not eligible to receive any more loan advances under the guarantee. In such cases the lender may continue with the loan(s) and reamortize it within the original term provided FmHA and the lender determine that:

(1) There is a reasonable chance for the guaranteed loan advance(s) to be paid in full.

(2) The remaining collateral plus any to be obtained will be sufficient to meet EL security requirements.

(3) Proceeds from livestock sales properly have been paid on the guaranteed loan advance(s) or release for authorized EL purposes, and

(4) Any holders consent to the reamorization and that the reamortization documents are attached to all documents evidencing the guarantee.

§ 1980.278 Transfer and assumption of loans.

(a) If the borrower can no longer continue with the loan, consideration may be given to transfering the loan to an eligible transferee with the concurrence of FmHA. If the transferor has any equity in the loan the transferee will pay to the transferor this equity either in the form of cash, or by obtaining a loan with or without a guarantee or a combination of cash and a loan. The total security will be transferred unless unusual circumstances prevail in which case National Office approval will be required. Assumption and transfer of security property agreements, notes, or assumption forms provided by the lender will be executed by the transferee. An "eligible transferee" is one that, after the assumption, meets the eligibility requirements specified in §1980.220. No applicant shall be deemed "eligible" after September 30, 1978. The transferee's application will be processed by the lender as prescribed in §1980.246 and the following:

(1) A County Committee certification will not be required.

(2) The priorities of the existing lien(s) securing the guarantee will not be adversely affected.

(3) Any cash down payment (other than an equity payment) or proceeds from the sale of any security property will be credited on the transferor's guaranteed loan before the transfer and assumption transaction is closed.

(4) The transferor may be released from personal liability provided the total outstanding indebtedness is assumed and providing the collateral being transferred is at least equal to the amount of the loan being assumed.

(5) *The existing guarantee will continue.* The existing guarantee will continue in effect, so a new guarantee instrument will not be issued. However, as soon as the transfer and assumption have been completed, the lender will so indicate on the original Loan Note Guarantee or Contract of Guarantee by inserting a check in the assumption agreement box and inserting the name of the assuming party for those purposes on the Loan Note Guarantee or Contract of Guarantee.

(b) *Change in loan terms.* All changes in loan terms must be approved in writing by the loan approval official, the borrower, and lender, and all holders if any, and a copy of the changed terms attached to each portion (both guaranteed and unguaranteed) of the loan.

ADMINISTRATIVE

(A) *Loan approval officials, consistent with their authority to approve guarantees, may consent:* (1) To all transfer and assumption cases. (2) To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the transferor and guarantors of the decision in writing. (3) To any changes in the loan terms provided the holder(s), if any and lender agree. (B) The Loan Note Guarantee or Contract of Guarantee will be endorsed in the space provided on the form. (C) A copy of the Assumption Agreement will be retained in the County office file. The County Supervisor will notify the Finance Office of all approved Transfer and Assumption cases so that Finance Office records may be adjusted accordingly. (D) When all the security is not transferred the State Director will submit to the National Office the full facts and justification for his recommendation and the County Office files.

§ 1980.279 Loan servicing.

The lender is responsible for loan servicing. Refer to paragraph X of Form FmHA 449–35 for Loan Note Guarantee cases, and to paragraph IX of Form FmHA 449–38 for Contract of Guarantee cases.

ADMINISTRATIVE

(A) While the lender has the primary responsibility for loan servicing and protecting the collateral, the County Supervisor is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt followup on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

(B) *The County Supervisor will:* (1) Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the Contract of Guarantee or Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it. (2) Review all EL borrowers' financial statements furnished by the lender with the District Director, and will take appropriate servicing action reminding the lender of his servicing responsibilities. Refer to paragraph X of Form FmHA 449–35, or paragraph IX of Form FmHA 449–38. (3) Immediately contact the District Director when notified by the lender of borrower's failure to fulfill any conditions of the loan approval conditions to determine the action to be taken. (4) Notify the District Director in writing upon receipt of notice from the Lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. Refer to paragraph XI of Form FmHA 449–35, or paragraph X of Form FmHA 449–38. (5) Establish an office management system for guaranteed loans in accordance with FmHA Instruction 405.1 to insure timely followup on all required financial statements, and any special requirements for loan servicing conditions. (6) Notify the Finance Office when the lender makes any approved protective advances. (7) Submit to the Finance Office semiannually the lender's statement required in paragraph X B 10 of Form FmHA 449–35, or paragraph IX of Form FmHA 449–38, reflecting the unpaid principal balances on the loan.

(C) *District Director will:* (1) Assure that the County Supervisor carries out his responsibilities. (2) Accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the lender. (3) Provide guidance and assistance to the County Supervisor if a loan develops into a problem case. (4) Review all Field Visit Reports and make recommendations or comments and transmit them to the State Director, if necessary.

(D) *FmHA servicing authorizations.* For loans in amounts not in excess of their loan approval authority, FmHA officials are authorized to approve or concur in: (1) Alterations in the loan approval conditions which will not prejudice the Governments interest. (2) Any replacement of collateral for the loan. (3) All lien coverage and lien priorities on the collateral established by the lender before issuance of the Contract of Guarantee or Loan Note Guarantee. (4) Any renewal of loan notes in concurrence with the lender. (5) Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449–35, or paragraph IX of Form FmHA 449–38 "Lender's Agreement".

(E) *National Office assistance.* State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§ 1980.280 Protective advances.

Refer to paragraph XIII of Form 449–35, or paragraph XII of Form FmHA 449–38 as appropriate.

ADMINISTRATIVE

(A) It is not intended that protective advances be made in lieu of additional loans. (B) The County Supervisor is authorized to approve protective advances and will consider the following when approving such advances: (1) The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies. (2) The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.281 Termination of guarantee.

Refer to paragraph XII of Form FmHA 449–34 for termination of Loan Note Guarantees, and to Form FmHA 449–27 for termination of Contracts of Guarantee.

ADMINISTRATIVE

The County Supervisor will advise Finance Office when a Loan Note Guarantee, or Contract of Guarantee is terminated.

§ 1980.282 Defaults by borrower.

(a) Refer to paragraph XI of Form FmHA 449-35 for Loan Note Guarantee cases and to paragraph X of Form FmHA 449-38 for Contract of Guarantee cases.

(b) The lender will arrange a meeting with the County Supervisor and the borrower to resolve the problems.

(c) The lender will summarize the meeting in a memorandum listing the individuals who attended, and describing the problems, and the proposed solutions. The original will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

ADMINISTRATIVE

(A) The County Supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity of the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor. (B) The County Supervisor will review the material submitted, verify the amounts due the holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due to the holder(s). (C) The County Supervisor will verify the amounts payable to the holder and assure that all necessary material has been obtained. The County Supervisor will request a check to pay the holder(s) on the appropriate date entry form. The Finance Office will forward the check to the County Supervisor within 10 days after receipt of the request. (D) Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.283 Liquidation.

Refer to paragraph XII of Form FmHA 449-35 for Loan Note Guarantee cases, and to paragraph XI of Form FmHA 499-38 for Contract of Guarantee cases.

ADMINISTRATIVE

(A) The District Director determines which FmHA personnel will attend meetings with the Lender. (B) *Form FmHA 449-35, or Form FmHA 449-38, paragraphs XII B or XI B respectively.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate. (C) *Form FmHA 449-35, or Form FmHA 449-38, paragraphs XII D or XI D respectively.* County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph XII D or paragraph XI D as appropriate. The concurrence of the District Director will be necessary before the County Supervisor may accept the accounting reports as submitted by the lender and before submission of such reports to lenders when FmHA is conducting liquidation. (D) *Form FmHA 449-35, or Form FmHA 449-38 paragraphs XII E 2 or XI E 2 respectively.* County Supervisors are authorized to accept Report of Loss determinations for both Loan Note Guarantee and Contract of Guarantee cases on Form FmHA 449-30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit to the Finance Office for payment any losses claimed on Form FmHA 449-30. The Finance Office will forward loss payment checks within 10 days of receipt of the claim to the County Supervisor for delivery to the lender. (E) *Form FmHA 449-35 or Form FmHA 449-38 paragraphs XII E 3 or XI E 3 respectively.* Final loss payments will be made within the 60 days required but only after a review has been made to accurately determine FmHA liability. State Directors are responsible to see that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such reviews when the *loss* does not exceed $35,000; District Directors when the *loss* does not exceed $100,000; and State Directors for amounts not to exceed their loan approval authority. If the State Director wishes National Office assistance, in the conduct of the review, he may request it.

§§ 1980.284–1980.289 [Reserved]

§ 1980.290 Graduation.

There is no "graduation" requirement for EL loans. Therefore, these loans will not be reviewed by FmHA to determine whether lenders should be in position to carry them without a guarantee.

§ 1980.291 Appeal procedure.

See § 1980.80 of Subpart A for the method of having adverse decisions of County Supervisors, District Directors, and State Directors reviewed in both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.292 Access to records of lenders.

See § 1980.81 of Subpart A for this requirement in both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.293 County and State Office files.

(a) *County office files.* County offices having charge of loan guarantees are not expected to maintain complete case files. However, the County Office case file for each loan guarantee should contain originals or copies of forms and other material which is needed to monitor the lender's loan servicing actions.

(b) *State office files.* State Directors may maintain files on cases which require special servicing attention.

§ 1980.294 FmHA forms.

(a) See Appendix A for list of applicable FmHA forms, number to be prepared, signatures required, and manner of distribution.

(b) Forms FmHA 449-27, "Contract of Guarantee (Emergency Livestock Loan)"; FmHA 449-38, "Lender's Agreement (Emergency Livestock Loan—Contract of Guarantee)"; Form FmHA 449-15, "Conditional Commitment for Emergency Livestock Loan Contract of Guarantee"; Form FmHA 449-25, "Request for Guarantee (Emergency Livestock Loan)"; Form FmHA 449-26, "Certificates of Lender and Loan Applicant (Emergency Livestock Loan)"; are incorporated in this Subpart C, made a part hereof, and appear as appendixes B, C, D, E, and F in the FEDERAL REGISTER.

§§ 1980.295—1980.299 [Reserved]

GENERAL ADMINISTRATIVE

(A) *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to EL loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters it should consult with OGC. (B) *Delegation of authority.* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart C.

APPENDIX A—FMHA FORMS

(a) The following chart lists applicable FmHA forms, number to be prepared, signatures required, and manner of distribution. Any of these FmHA forms and others needed by lenders or applicants may be obtained from FmHA.

FmHA form number	Name of form	Total number	Signed by [1]	Distribution
	Forms needed by a lender for use in preparing the EL guarantee request			
400-1	Equal opportunity agreement	3	B-O	O-L, C-B, C-FmHA.
400-3	Notice to contractors and applicants	4	L-O	O-Con, C-B, C-L, C-FmHA.
400-6	Compliance statement	4	L and Con 3-O	O-L, C-Con, C-B, C-FmHA.
449-6	Application for guaranteed loan (farmer programs).	2	B-O	O-L, C-FmHA.
449-25	Request for guarantee (emergency livestock loan).	2	L-O	O-FmHA, C-L.
449-26	Certificates of lender and loan applicant (emergency livestock loan).	3	L and B-O	O-FmHA, C-L, C-B.
449-35	Lender's agreement	2	L and FmHA	O-FmHA, C-L.
449-36	Assignment guarantee agreement	3	L, H and FmHA	O-H, C-L, C-FmHA.
449-38	Lender's agreement (emergency livestock loan—contract of guarantee).	2	L and FmHA, (O and C).	O-FmHA, C-L.

FmHA form number	Name of form	Total number	Signed by [1]	Distribution
	Forms used by FmHA in processing and handling the guarantee request			
440-2	County committee certification or recommendation.	1	(2)	FmHA.
440-1	Request for obligation of funds	4	FmHA-O	OLC-FC, C-county office, C-State director.
449-13	Denial letter	2	FmHA-O	O-L, C-FmHA.
449-14	Conditional commitment for guarantee	2	FmHA-O	O-L, C-FmHA.
449-15	Conditional commitment for emergency livestock loan guarantee.	2	FmHA-O	O-L, C-FmHA.
449-27	Contract of guarantee (emergency livestock loan).	2	FmHA-O	O-L, C-FmHA.
449-31	Emergency livestock loan analysis	3	FmHA-O	O-FC, C-FmHA, C-state director.
449-34	Loan note guarantee	2	FmHA-O	O-L, C-FmHA.
	Forms used jointly by lender and FmHA			
449-30	Loan note guarantee report of loss	3	L-O	O-FmHA, C-L, C-FmHA.

[1] Signature and distribution "L"—lender; "H"—holder; "B"—borrower or assumptor; "FC"—finance office; "FmHA"—authorized FmHA official; "Con"—contractor; "O"—original; "C"—copy.
[2] County committee.

(b) *Other forms and information.* Any needed forms not furnished by FmHA will be provided by the lender. The lender may obtain information from FmHA and copies of other FmHA forms that may be helpful in various aspects of loan making, construction and development, and loan servicing.

(c) *Racial code.* Some FmHA forms contain space for coding the race of the applicant for the loan or assumption. In the code, "W" means "White," "N/B" means "Negro (Black)," "S" means "Spanish-American," "AI" means "American Indian," and "O" means any other race. The lender is responsible for completing this code on all forms on which it appears, in accordance with his best judgment as to the race involved.

(d) *Revision of existing forms.* Until the present supply is exhausted, the forms described below will be revised on an individual case basis as follows:

(1) *Form FmHA 400-1, "Equal Opportunity Agreement."* In the second paragraph after the word "Recipient, "insert" or to Recipients lender." In subparagraph 1(e), change the word "or" to "issued."

(2) *Form FmHA 400-6, "Compliance Statement."* In the first paragraph between "with" and "assistance," insert "loan guarantee."

(3) *Form FmHA 440-2, "County Committee Certification or Recommendation."* (i) *Loan note guarantee cases.* In the upper right hand corner insert "Guaranteed Loan." Check the "Other" box in Type of Assistance and insert "EL" in the blank opposite "Other (Specify)." Add "11. ☐ for an EL loan, we certify an amount not exceeding $_____."

(ii) *Contract of guarantee cases.* In the upper right hand corner insert "Guaranteed Line of Credit." Check the "Other" box in Type of Assistance and insert "EL" in the blank opposite "Other (Specify)." Add "11. ☐ For an EL line of credit, we certify an amount not exceeding $_____."

(4) *Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."* The crop and livestock production tables on the face of the form may be omitted.

USDA-FmHA
Form FmHA 449-15
(3-29-77)

CONDITIONAL COMMITMENT FOR EMERGENCY LIVESTOCK LOAN CONTRACT OF GUARANTEE

	CASE NO.
	State
TO: Lender	County
Lender's Address	Line of Credit Ceiling $
Borrower	Principal Amount of Initial Loan $

From an examination of information supplied by the Lender on the above proposed loan, the county committee certification or recommendation, if required, and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the Farmers Home Administration (FmHA) hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form FmHA 449-27, "Contract of Guarantee (Emergency Livestock Loan)," subject to the conditions and requirements specified in said regulations and below.

The interest rate for the loan is _____%. 1/ If a variable rate is used, it must be tied to a base rate which cannot change more often than quarterly and must be published periodically in a financial publication specifically agreed to by the Lender and Borrower. Any change in interest rates from date of issuance of this form must be approved by the FmHA State Director. Such related information may be ascertained from any FmHA office or by consulting the Federal Register.

A Contract of Guarantee will not be issued until the Lender certifies that it has no knowledge of any adverse change, financial or otherwise, in the Borrower, his business, or any parent, subsidiaries, or affiliates since it requested a Contract of Guarantee.

Additional Conditions and Requirements: 2/

This conditional commitment will expire on _____ 3/ unless the time is extended in writing by FmHA, or upon the Lender's earlier notification to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

By: _____

Date: _____ FmHA: _____
(Title)

Position 2

Acceptance or Rejection of Conditions

To: Farmers Home Administration (FmHA) 4/

The condition of Form FmHA 449-15 on the other side of this page:

1. ☐ are acceptable and the undersigned Lender intends to proceed with the loan transaction and to request issuance of a Contract of Guarantee at the appropriate time.
2. ☐ are acceptable, but for other reasons the undersigned Lender does not desire a Contract of Guarantee.
3. ☐ are not acceptable and for that reason the undersigned Lender does not desire a Contract of Guarantee.
4. ☐ are not acceptable, but would be acceptable if the following changes were made:

If block number "1" above is checked:

(a) It is understood that the following information may now be released upon request: Name and address of Applicant, name and address of Lender, amount of loan, and general purpose of the loan.

(b) It is anticipated that the Contract of Guarantee will be requested in approximately _____ days.

_____
(Name of Lender)

_____ By: _____
(Date) (Signature of Lender)

1/ Insert fixed interest rate or, as authorized by regulations, variable interest rate followed by "V."

2/ Insert any additional conditions or requirements in this space or on an attachment referred to in this space; otherwise insert "NONE".

3/ Insert expiration date. (Allow sufficient time for processing and issuance of the Contract of Guarantee.)

4/ Return completed and signed copy of this form to FmHA office from which it was received.

NOTE TO LENDER: Complete and execute the Acceptance or Rejection of Conditions as indicated above on the copy of this form and return it to FmHA.

Appendix C
Form Approved
OMB No. 40-R3931

USDA-FmHA
Form FmHA 449-25
(Rev. 3-21-77)

REQUEST FOR GUARANTEE
(Emergency Livestock Loan)

CASE NO.

TO: Farmers Home Administration (FmHA) | State | County

Applicant's Name	Applicant's Address
Lender Requests a Loan Note Guarantee	Lender Requests a Contract of Guarantee
	Line of Credit Ceiling $
Principal Amount of Loan $	Principal Amount of Initial Loan $

The undersigned Lender hereby requests issuance of a guarantee in the subject case.

THE FOLLOWING INFORMATION AND DOCUMENTS ARE SUBMITTED FOR YOUR CONSIDERATION:

1. Copy of Application for Loan with enclosures.
2. Cash flow sheet, if used by Lender.
3. Any drawings and specifications for: ☐construction ☐major repairs ☐major land development
4. Appraisal report on any real estate security.
5. Certificates of Lender and Loan Applicant (Emergency Livestock Loan).
6. Purposes for which guarantee loan funds for the first full operating year will be used and the amounts to be used for such purposes are:

Purposes	Amounts
	$

7. Interest rate to borrower is _____% per annum.
8. Loan fee payable by loan applicant is _____% of principal amount of loan or $ _____. a/
9. Repayment period for the initial loan is _____year(s).
10. Proposed loan guarantee is _____% of the principal and interest.
11. Escrow account is required for: ☐Taxes ☐Insurance premiums ☐Other (Specify) _____
12. The undersigned Lender is subject to examination and supervision by

_____
(Insert name of agency of United States or State, or "None")

a/ Insert "None," or if Lender charges a loan fee, insert percentage of dollars.

13. Loan(s) will be ☐made, and/or ☐serviced, by the undersigned's:

☐Main office address: _____

☐Branch office: _____
(Name of office)

Branch office address: _____

☐Agent: _____
(Name of Agent)

Agent's address: _____

14. Initial loan is scheduled for repayment: _____
(Dates of monthly, annual, or other installments)
15. Late payment charges, if any, are made on the following basis pursuant to a written agreement between the applicant and the undersigned Lender as required by 7 CFR 1980.22: _____
16. Types and amounts of insurance required are:

Types	Amounts
	$
	$

17. List of Required Security Property
(Including That on Hand and to be Acquired)

DESCRIPTION OF PROPERTY

A. ON HAND*	APPRAISED VALUE	AMT. ANY PRIOR LIENS	EL LOAN EQUITY
	$	$	$
	$	$	$

Appraiser's Certificate on Personal Property

Personal property listed above, if any, was appraised by me at the values set forth opposite the description thereof.

_____ *(Date)*

_____ *(Appraiser)*

B. TO BE ACQUIRED*	ESTIMATED VALUE
	$
TOTAL	$

* Quantity and brief description. For example: "Smith farm 160 acres," (based on separate appraisale report) "1 - 1972 John Deere 2520 Tractor," "25 Hereford range cows, 3-6 years."

18. Plan of Operation agreed upon by Lender and loan applicant for first full operating year

a. PLANNED CROPS, PASTURE, ETC. - PRODUCTION AND SALES

CROPS, PASTURE, ETC.	ACRES	YIELD PER ACRE	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
					$
				TOTAL	$

b. PLANNED LIVESTOCK AND PRODUCTS PRODUCTION AND SALES

KIND	PRODUCTION PER ANIMAL	NUMBER	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
					$
				TOTAL	$

19. CASH OPERATING EXPENSES

	TOTAL CREDIT NEEDED	TOTAL PLANNED EXPENSES
Hired Labor	$	$
Machinery Repair	$	$
Interest	$	$
Cash Rent	$	$
Feed	$	$
Seed	$	$
Fertilizer	$	$
Pesticides & Spray Materials	$	$
Livestock Expense	$	$
Machinery Hire	$	$
Fuel and Oil	$	$
Personal Prop. Tax	$	$
Real Estate Taxes	$	$
Water Charges	$	$
Property Insurance	$	$
Auto & Truck Expense (Farm)	$	$
Utilities	$	$
Feeder Livestock (Bought & sold during year)	$	$
Family Living Expenses	$	$
Other	$	$
TOTAL	$	$

20. Financial Summary of First Full Years Operation

A. Livestock Income	$
B. Crop Income	$
C. Other Farm Income	$
D. Off-Farm Income (net)	$
E. Total Gross Income (A+B+C+D)	$
F. Total Cash Expenses (Table 19)	$
G. Net Cash Income (E minus F)	$
H. Loans and Other Credit	$
I. Interest	$
J. Balance Available for Debt Payment (G+H+I)	$

21. DEBT REPAYMENT

TO WHOM OWED	AMOUNT DUE FIRST YEAR (PRIN. & INT.)	PLAN PRIN. & INT. TO BE PAID	PLAN DATE	SOURCE OF FUNDS
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
Income and Social Security Taxes	$	$		
TOTAL	$	$		

22. The loan will be properly closed and the required security will be obtained.

23. The borrower has title marketable in fact to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below:

24. Security property now owned (any to be acquired) is considered adequate security for the loan to be guaranteed, or if inadequate state in item 29 of this form, why you believe the borrower's farm or ranch operating plans will permit him to pay the guaranteed EL loan in full within a period not exceeding 7 years. The security instruments will be properly filed or recorded prior to the issuance of the guarantee; except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as appropriate and legally permissible.

25. Truth in Lending requirements will be met.

26. All Equal Opportunity and Nondiscrimination requirements will be met (or any that cannot yet be met will be met at the appropriate time).

27. The undersigned (a) considers the proposed loan to be sound and within the borrower's repayment ability, and (b) believes that all applicable requirements in Subparts A and C of Part 1980, 7 CFR have been or will be met.

28. Lender's Planned Loan Servicing:

29. Other Relevant Information:

_____
(Name of Lender)

_____
(Date)

BY: _____

TITLE: _____

_____
(Lender's IRS ID Tax No.)

USDA-FmHA
Form FmHA 449-26
(Rev. 3-23-77)

CERTIFICATES OF LENDER AND LOAN APPLICANT
(Emergency Livestock Loan)

Lender / Lender's IRS Tax No.	CASE NO. / State
Lender's Address	County
Loan Applicant's Name & Address	Principal Amount of Loan $ _____ or Line of Credit Ceiling $

To induce the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), to execute a Loan Note Guarantee or Contract of Guarantee with respect to Emergency Livestock (EL) loan(s) pursuant to the Emergency Livestock Credit Act of 1974 as amended, and the regulations in 7 CFR Part 1980, Subparts A and C:

A. LENDER'S CERTIFICATE. The above-named lender hereby certifies that:

1. Lender has received an application from the above-named applicant for an EL loan or line of credit in the amount stated above for use for the purposes and in the amounts set forth in Form FmHA 449-25, to which this certificate is attached.
2. Lender is unwilling to make such loan or line of credit advances without an FmHA guarantee.
3. Loan applicant was engaged in particular livestock operation(s) on July 25, 1974, the effective date of said Act, and was engaged in said operation(s) continuously for a period of _____ *(months or years)* immediately prior to July 25, 1974.
4. Loan applicant is a bona fide farmer or rancher (a) doing business in the United States either as an individual, corporation, or partnership, which is recognized in the community as one whose chief occupation is farming or ranching, (b) primarily and directly engaged in agricultural production, and (c) having substantial operations in breeding, raising, fattening or marketing livestock, including dairy cattle raised and maintained for the primary purpose of marketing dairy products hereinafter referred to as a livestock operation). In the case of an individual loan applicant the term "primarily and directly engaged in agricultural production" means that he derives more than 50 percent of his gross income from his own agricultural production or devotes more than 50 percent of his time to such production. The term "substantial operations in livestock" means that he derives not less than 25 percent of his gross farm income from his own livestock operation, or devotes not less than 25 percent of his time to such operation, or has not less than 25 percent of his total capital investment in such operation. In the case of a corporation or partnership loan applicant, the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and that the shareholders or partners owning or controlling a majority interest in such corporation or partnership derive more than 50 percent of their gross income from their own or the corporation's or partnership's agricultural production, and devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or has not less than 25 percent of its total capital investment in such operation.
5. The loan or line of credit requested by the loan applicant is to be used for purposes which are essential to carrying on livestock operations related to breeding, raising, fattening, or marketing livestock of the following type(s):
   ☐ Beef Cattle ☐ Dairy Cattle ☐ Swine ☐ Sheep ☐ Goats ☐ Chickens ☐ Turkeys
6. The requested loan or line of credit is for the purpose of maintaining said livestock operation(s), and will not exceed the amount necessary to permit the loan applicant to continue said livestock operation(s) at a level equal to the highest number at which the loan applicant conducted said livestock operation(s) during the 18 months immediately preceding July 25, 1974.
7. If any loan advance is to be used to refinance indebtedness incurred in conducting said livestock operation(s).
   (a) That part for refinancing is essential in order for the applicant to continue said livestock operation(s).
   (b) Lender will not refinance the existing loan without an FmHA guarantee, and
   (c) Lender is not currently refinancing similar loans to others without such guarantees.

_____
(Name of Lender)

_____
(Date)

BY _____
(Authorized Official)

TITLE _____

B. LOAN APPLICANT'S CERTIFICATE. The above-named loan applicant hereby certifies that:

1. Loan applicant, if an individual (or its officials who execute this certificate in its behalf, if it is a legal entity) state(s) that (he has) (they have) read the within and foregoing Lender's Certificate and that the contents thereof are all true and correct to the best of his or their knowledge and belief.
2. Loan applicant will be unable to obtain the financing requested without an FmHA guarantee under said Act and regulations.
3. Loan applicant, if an individual, does not own or control as much as 20% interest in any corporation or partnership that is applying for or has received an Emergency Livestock loan or, if he has or does, the total of the loans applied for and/or received by all of them does not exceed $350,000. If the loan applicant is a corporation or a partnership, no person who owns or controls as much as 20% interest in it has applied for or received an Emergency Livestock loan or, if he has or does, the total of the loans applied for and/or received by all of them does not exceed $350,000. Ownership or control of less than 20% interest in a corporation or partnership does not affect the individual stockholder's, partner's, corporation's, or partnership's qualifications for an Emergency Livestock loan.
4. Loan applicant, if an individual, is a citizen of the United States or a person who has been legally admitted for permanent residence in the United States. If a corporation or partnership, the principal stockholders or partners are citizens or such permanent residents of the United States, and the corporation or partnership is authorized to carry on livestock operations in the State involved. For the purpose of meeting citizenship requirements, any partner or stockholder owning or controlling as much as 20 percent interest in a partnership or corporation will be considered a principal partner or stockholder. If no person owns or controls as much as 20 percent, all partners and stockholders will be considered principal partners or stockholders.
5. The loan may be accelerated if I cease to be a farmer or rancher.
6. Loan applicant has no FmHA guaranteed EL loan(s) except in the amount of $_____

_____ (Individual)

_____ (Individual)

_____ (Name of Corporation)

_____ (Secretary)

BY _____ (President)

(Corp. Seal)

_____ (Date)

_____ (Partner) _____ (Date)

_____ (Name of Partnership)

_____ (Partner) _____ (Date)

BY _____ (Partner)

_____ (Partner) _____ (Date)

_____ (Date)

USDA-FmHA
Form FmHA 449-27
(Rev. 3-22-77)

CASE NO.

State

County

CONTRACT OF GUARANTEE
(Emergency Livestock Loan)

Lender	Lender's IRS Tax No.	Date of Line of Credit Agreement
Lender's Address		Line of Credit Ceiling $

Borrower's Name and Address

The guaranteed portion of this loan is _____% of the principal balance owed at any one time on advances made within an approved line of credit before September 30, 1978 by the above-named Lender to the above-named Borrower.

In consideration of making loan advance(s) by the Lender within the line of credit ceiling pursuant to the Line of Credit Agreement, the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Emergency Livestock Credit Act of 1974 (P. L. 93-357), as amended, does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to the Lender who holds note(s) for said advance(s) (or assumption agreement) covered by this contract the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:
   a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), and
   b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral; or
2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due thereon.

If FmHA conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Contract of Guarantee. If Lender conducts the liquidation of the loan, accruing interest shall be covered by this Contract of Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

CONDITIONS OF GUARANTEE

1. Loan Servicing

Lender will be responsible for servicing the entire loan, and Lender will remain mortgagee and/or secured party of record.

2. Priorities

The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

3. Full Faith and Credit

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. In addition, the Contract of Guarantee will be unenforceable by Lender to the extent any loss is occasioned by the violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

4. Protective Advances

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Contract of Guarantee.

5. When Guarantee terminates

This Contract of Guarantee will terminate automatically (a) upon full payment of the guaranteed loans or (b) upon full payment of any loss obligation hereunder or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice.

6. Settlement

The amount due under this instrument will be determined and paid as provided in the applicable Subpart of Part 1980 of Title 7 CFR in effect on the date of this instrument.

7. Notices

All notices and actions will be initiated through the FmHA County Supervisor for _____(County)

_____(State with mailing address at the date of this instrument:

_____

_____

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By: _____

_____ Title: _____

Date

Assumption Agreement by _____ dated _____, 19 ___

Assumption Agreement by _____ dated _____, 19 ___

USDA-FmHA
Form FmHA 449-38
(3-29-77)

FmHA Loan Ident. No.

LENDER'S AGREEMENT
(Emergency Livestock Loan – Contract of Guarantee)

Applicable 7 CFR Part 1980, Subpart C

_____(Lender) of _____

has established a line of credit to _____(Borrower) for the fiscal period ending

_____, 19 ___, for the purpose of _____

_____

in the maximum sum of $ _____ as evidenced by a "Line of Credit Agreement" dated _____,

19 ___.

The United States of America, acting through Farmers Home Administration (FmHA) has entered into a "Contract of Guarantee" (Form FmHA 449-27) or has issued a "Conditional Commitment for Guarantee" (Form FmHA 449-15) to enter into a Contract of Guarantee with the Lender applicable to such line of credit to participate in a percentage of any loss on the loan advances not to exceed _____% of the amount of the principal and any accrued interest. The terms of the Contract of Guarantee are controlling. As a condition for obtaining a guarantee of the loan advances the Lender enters into this agreement.

THE PARTIES AGREE:

I. The maximum loss covered under the Contract of Guarantee will not exceed _____percent of the principal and accrued interest owed on any Emergency Livestock loan advances made within the line of credit ceiling and the terms and conditions of the Contract of Guarantee.

II. Full Faith and Credit.

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. The Contract of Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

III. Lender's Sale of Guaranteed Loan by Participation.

A. The Lender may obtain participation in its loan under its normal operating procedures. Participation means a sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

B. The Lender may retain or sell any amount of the unguaranteed portion of the loan as provided in this section only through participation. However, the Lender will retain the responsibility for loan servicing and liquidation.

IV. The Lender agrees loan funds will be used for the purposes authorized in Subpart C of Title 7 CFR Part 1980 in accordance with the terms of Form FmHA 449-15.

V. The Lender certifies that it is a citizen of the United States of America, or, if an organization, that the ownership of at least 51 percent of any outstanding interests of the Lender is owned by citizens of the United States. Further, such Lender certifies that any guarantees received shall be only on loans made by it, operating for itself and not on behalf of foreign citizens or organizations.

VI. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the borrower. The Lender certifies that neither the borrower nor its officers or directors, stockholders or other owners has a substantial financial interest in the Lender.

VII. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, his business or any parent, subsidiaries, or affiliates since it requested a Contract of Guarantee.

VIII. Lender certifies that the Line of Credit Agreement and/or loan instruments concurred in by FmHA has been or will be signed with the Borrower.

IX. Servicing.

A. The Lender will service the entire loan and will remain mortgagee and/or secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan.

B. It is the Lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements. None of the aforesaid instruments will be altered without FmHA's prior written concurrence.

2. Receiving all payments on principal and interest on the loan advances as they fall due.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained with a loss payable clause in favor of the Lender as the mortgagee or secured party.

5. Assuring that: taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation; insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to $_____ without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and or operation of the farm or ranch.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the borrower obtains title marketable in fact to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

10. Providing FmHA a statement certified by an officer of the Lender of the unpaid principal balance of the guaranteed loan semiannually as of June 30 and December 31.

11. Obtaining from the Borrower periodic financial statements under the following schedules: _____

_____.

Lender is responsible for analyzing the financial statements, taking any servicing actions needed, and providing copies of statements and record of actions to the County Supervisor.

X. Defaults by Borrower.

A. The Lender will notify FmHA when a Borrower is thirty (30) days past due on a payment and is unlikely to bring its account current within sixty (60) days, or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with concurrence of FmHA may include but are not limited to any curative actions contained in Subpart C of Part 1980, or liquidation.

B. The Lender will negotiate in good faith in an attempt to resolve any problem and to permit the Borrower to cure a default, where reasonable.

XI. Liquidation.

If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

A. Lender's proposed method of liquidation. Within 30 days after the decision to liquidate is made, the Lender will advise FmHA of its proposed method of liquidation and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal balance including accrued interest is less than $200,000, the Lender will obtain an estimate of the market and potential liquidated value of the collateral. On principal balances in excess of $200,000, and all other loans, the Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the Lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. FmHA's response to Lender's liquidation proposal. FmHA will inform the Lender whether it concurs in the Lender's proposed method of liquidation within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation proposal, FmHA will proceed with the liquidation as follows:

1. The Lender will transfer to FmHA all its rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. Liquidation Accounting and Reports. When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary for successful completion of liquidation. When FmHA liquidates, the Lender will be provided with similar reports on request.

E. Determination of Loss and Payment. In all liquidation cases, a final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses paid under the guarantee from any party liable.

1. Form FmHA 449-30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final determinations.

2. When the Lender is conducting the liquidation, he may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. Such estimate will be prepared on Form FmHA 449-30, using the basic formula as provided on the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral.

After the Report of Loss Estimate has been approved by FmHA, and within 30 days, thereafter, FmHA will send the original Report of Loss Estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449-30 by the Lender to FmHA.

3. After the Lender has completed liquidation FmHA, upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the Final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the Final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

4. When the Lender has conducted liquidation and after the Final Report of Loss has been tentatively approved:

   a. If the loss is greater than the estimated loss payment, FmHA will send the original of the Final Report Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

   b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5. If FmHA has conducted liquidation, it will provide an accounting and report of loss to the Lender and will pay the Lender in accordance with the Contract of Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved.

F. Maximum amount of interest loss payment. Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Contract of Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest payable to the Lender, if any, will be calculated on the final Report of Loss form.

G. Application of FmHA loss payment. The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed loan debt. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied.

H. Income from collateral. Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. Liquidation costs. Certain liquidation costs will be allowed during the liquidation process. Such costs will be deducted from gross proceeds from the disposition of collateral. The amount allowed will be the amount agreed upon by FmHA and the Lender as being reasonable under the circumstances and should be determined prior to liquidation.

J. Foreclosure. The parties owning the guaranteed portion and unguaranteed portions of the loan will join to institute foreclosure action or, in lieu of foreclosure, to take a deed of conveyance to such parties. When the conveyance is received and liquidated, net proceeds will be applied to the guaranteed loan debt.

K. Payment. Such loss will be paid by FmHA within 60 days after the Lender has submitted the final Report of Loss form.

XII. Protective advances.

Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $500. Protective advances include, but are not limited to, advances for taxes, annual assessments, ground rent, hazard or flood insurance premiums effecting the collateral, and other expenses necessary to preserve or protect the security.

XIII. Additional Loans or Advances.

The Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

XIV. Future Recovery.

After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the Lender will retain such amounts in proportion to the percentage of the unguaranteed portion of the loan.

Dated: May 12, 1977.

XV. Transfer and Assumption Cases.

Refer to Subpart C of Title 7 of CFR Part 1980.

XVI. Other Requirements.

This agreement is subject to all the requirements of Subpart C of Title 7 CFR Part 1980, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations not inconsistent with this agreement.

XVII. Execution of Agreements.

If this agreement is executed prior to the execution of the Contract of Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XVIII. Notices.

All notices and actions will be initiated through the FmHA County Supervisor for _____(County) _____(State) with mailing address at the date of this instrument: _____.

Dated this _____ day of _____, 19 ____.

LENDER:

ATTEST: _____ SEAL

By _____

Title _____

UNITED STATES OF AMERICA

Department of Agriculture

Farmers Home Administration

By _____

Title _____

DENTON E. SPRAGUE,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-14383 Filed 5-20-77;8:45 am]

federal register

MONDAY, MAY 23, 1977

PART VIII

OFFICE OF MANAGEMENT AND BUDGET

■

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

May 1977

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

May 1977

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (P.L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of May 1, 1977, of the 13 rescissions and 57 deferrals contained in the first eleven special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, November 5, December 3, 1976, January 7, and 17, March 9, and 24, and April 4, and 28, 1977.

RESCISSIONS (TABLE A AND ATTACHMENT A)

There are no rescissions of budget authority pending before the Congress at the present time. Table A summarizes the status of rescissions proposed as of May 1, 1977. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of May 1, 1977, $4,539.1 million in 1977 budget authority was being deferred from obligation and another $43.9 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of existing deferrals. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI).
Monday, September 27, 1976 (Vol. 41, No. 188, Part III).
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV).
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII).
Wednesday, December 8, 1976 (Vol. 41, No. 237, Part II).
Thursday, January 13, 1977 (Vol. 42, No. 9, Part X).
Monday, January 24, 1977 (Vol. 42, No. 15, Part VIII).
Wednesday, March 16, 1977 (Vol. 42, No. 51, Part IV).
Wednesday, March 30, 1977 (Vol. 42, No. 61, Part VI).
Friday, April 18, 1977 (Vol. 42, No. 68, Part VI).
Wednesday, May 4, 1977 (Vol. 42, No. 86, Part VI).

JAMES T. MCINTYRE,
Deputy Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Proposed rescissions	1,135.4
Withdrawn (R77-4A, Special Message No. 4, R77-13A, Special Message No. 8)	-95.0
Accepted by the Congress (R77-3, R77-5, R77-8, R77-9, R77-10, R77-11)	-711.6
Rejected by the Congress	-60.4
Adjustments	-268.4 1/
Pending before the Congress	---

* *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (In millions of dollars)
Proposed deferrals	7,220.4
Routine Executive releases (-2,130.7M) and adjustments (-481.2M) 2/ through May 1, 1977	-2,611.8
Overturned by the Congress	-25.6
Currently before the Congress	4,583.0 3/

1/ This amount is the difference between $721.0 million in Navy shipbuilding and conversion funds originally proposed for rescission and $452.6 million rescinded. When the rescission was proposed, these funds were already obligated for supply contracts. In testimony before the House Appropriations Committee, the Secretary of Defense concurred in the opinion that these contracts should not be terminated.

2/ An amount equal to $1,639.5 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "adjustments" entry above because superseded deferrals are netted out in calculating the amount shown on the line "Deferrals proposed by the President" to avoid double counting.

3/ Includes $43.9 million of outlays in two Treasury deferrals--D77-26 and D77-27A.

ATTACHMENT A

A-1

STATUS OF RESCISSIONS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of May 1, 1977

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Foreign military credit sales.....	R77-5	[41,500] 1/	01-17-77	41,500 2/	03-25-77		
Department of Commerce							
U.S. Travel Service							
Salaries and expenses.	R77-6	[525]	01-17-77			525	03-15-77
National Oceanic and Atmospheric Administration:							
Operations, research, and facilities.....	R77-7	[1,500]	01-17-77			1,500	03-15-77
Department of Defense-Military							
Retired pay, Defense....	R77-8	[143,600]	01-17-77	143,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-9	[721,000] 3/	01-17-77	452,600 2/	03-25-77		
Other procurement, Air Force.....	R77-10	[14,350]	01-17-77	14,350 2/	03-25-77		
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund.....	R77-2	[6,600]	09-22-76			6,600	03-02-77
Department of the Interior							
Bureau of Mines:							
Helium fund.....	R77-3	[47,500]	09-22-76	47,500 4/	03-10-77		
Department of State							
Contributions for international peacekeeping activities.....	R77-11	[12,000]	01-17-77	12,000 2/	03-25-77		

A-2

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Transportation							
Federal Highway Administration:							
Highway crossing Federal projects.....	R77-4	[35,000]	09-22-76				
	R77-4A	0	11-05-76			35,000 5/	10-01-76
Coast Guard:							
Retired pay.....	R77-12	[6,803]	01-17-77			6,803	03-15-77
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation.	R77-1	[45,000] 6/	07-29-76			45,000 6/	10-01-76
Small Business Administration:							
Business loan and investment fund.....	R77-13	[60,000]	01-17-77				
	R77-13A	0	03-09-77			60,000 7/	10-01-76 7/
TOTAL:		0		711,550		155,428	

1/ This amount was included in a deferral (D77-38) that was transmitted to the Congress on 12-03-76.
2/ P.L. 95-15.
3/ Of the $721,000,000 proposed for rescission, $452,600,000 was rescinded because the difference, totaling $268,400,000, was previously obligated. The $452,600,000 was assumed to be included in a deferral (D77-34) transmitted to the Congress on 11-05-76.
4/ P.L. 95-14.
5/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976.
6/ These funds were not withheld during the 45-day Congressional consideration period.
7/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on March 9, 1977. These funds were not withheld during the 45-day Congressional consideration period.

ATTACHMENT B

B-1

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Emergency Refugee and Migration Assistance Fund	D77-1		8,640	10-01-76					
				10-28-76	-1,000				
				11-12-76	-1,200				
				12-29-76	-2,000				
				01-10-77	-1,000				
				01-31-77	-2,100				1,340
International Security Assistance									
Military assistance, 1977	D77-37		73,000	12-03-76					73,000
Foreign military credit sales	D77-38		740,000	12-03-76				-41,500 1/	
				01-10-77	-23,627				
				01-25-77	-585,533				89,340
TOTAL:			821,640		-616,460			-41,500	163,680

1/ This amount was proposed for rescission (R77-5). The proposal was accepted by the Congress in P.L. 95-15.

B-2

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Foreign Agricultural Service									
Salaries and expenses: (Special foreign currency program)	D77-2	[1,610]		10-01-76					
				01-17-77				-1,610 1/	
	D77-2A		1,743	01-17-77					1,743
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses	D77-3		2,919	10-01-76					
				12-30-76	-2,629				
				03-25-77	-84				206
Forest Service									
Expenses, brush disposal	D77-4		22,321	10-01-76					22,321
Licensee programs	D77-5	[146]		10-01-76					
				01-17-77				-146 1/	
	D77-5A		239	01-17-77					239
TOTAL:		1,756	27,222		-2,713			-1,756	24,509

1/ Subsequently incorporated in a supplementary report.

B-3

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
General Administration									
Special foreign currency program	D77-45		654	01-17-77					654
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	D77-46	[7,500]		01-17-77 03-28-77 04-28-77	-1,200			-6,300 1/	
	D77-46A		6,300	04-28-77					6,300
Promote and develop fishery products and research pertaining to American fisheries	D77-6	[1,771]		10-01-76 01-07-77				-1,771 1/	
	D77-6A		1,772	01-07-77 03-08-77	-600				1,172
Fisheries loan fund	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund	D77-8		59	10-01-76					59
Fisherman's guaranty fund	D77-9	[356]		10-01-76 01-07-77				-356 1/	
	D77-9A		544	01-07-77					544
Maritime Administration									
Ship construction	D77-47	[200,900]		01-17-77 04-04-77				-200,900 1/	
	D77-47A		200,900	04-04-77					200,900
TOTAL:		216,527	216,028		-1,800			-209,327	215,428

1/ Subsequently incorporated in a supplementary report.

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Shipbuilding and conversion, Navy	D77-34		929,250	11-05-76 01-17-77				-452,600 1/	476,650
Military construction, all services	D77-10	[76,483]		10-01-76 12-03-76				-76,483 2/	
	D77-10A	[335,883]		12-03-76 01-17-77				-335,883 2/	
	D77-10B	[387,652]		01-17-77 03-09-77				-387,652 2/	
	D77-10C		424,240	03-09-77 03-25-77 03-28-77 03-30-77 04-12-77 04-14-77	-12,960 -18,527 -34,011 -8,210 -5,425				345,107
TOTAL:		800,018	1,353,490		-79,133			-1,252,618	821,757

1/ This amount was included in a rescission proposal (R77-9). The proposal was accepted by the Congress in P.L. 95-15.
2/ Subsequently incorporated in a supplementary report.

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Corps of Engineers-Civil									
Construction, general...	D77-53		7,760	03-24-77					
				03-14-77	-5,095				2,665
Panama Canal									
Canal Zone Government:									
Capital outlay.....	D77-11		146	10-01-76					146
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations.....	D77-12	[363]		10-01-76					
				03-09-77				-363 1/	
	D77-12A		515	03-09-77					515
TOTAL:		363	8,421		-5,095			-363	3,326

1/ Subsequently incorporated in a supplementary report.

B-6

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign currency program).....	D77-13	[1,113]		10-01-76					
				01-07-77				-1,113 1/	
	D77-13A		2,113	01-07-77					2,113
Office of Education									
Higher education.....	D77-14	[31,702]		10-01-76					
				11-05-76				-31,702 1/	
	D77-14A		303,862	11-05-76					
				02-28-77	-23,082				280,780
Social Security Administration									
Limitation on construction.....	D77-15	[17,272]		10-01-76					
				11-05-76				-17,272 1/	
	D77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University.....	D77-35		500	11-05-76					500
TOTAL:		50,087	325,148		-23,082			-50,087	302,066

1/ Subsequently incorporated in a supplementary report.

B-7

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message		Date of Action	Releases Resulting From Subsequent Actions Taken by			Adjustments	Amount Deferred as of 05-01-77
		Superseded	Current		OMB/Agency	House	Senate		
Bureau of Land Management									
Oregon and California grant lands	D77-16		5,426	10-01-76					5,426
Bureau of Reclamation									
Colorado River Basin Project	D77-54		4,790	03-24-77					
				03-15-77	-4,790				0
Bureau of Outdoor Reclamation									
Land and water conservation fund	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction	D77-18		3,245	10-01-76					
				10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines	D77-20		3,525	10-01-76					3,525
TOTAL:			47,016		-8,035				38,981

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message		Date of Action	Releases Resulting From Subsequent Actions Taken by			Adjustments	Amount Deferred as of 05-01-77
		Superseded	Current		OMB/Agency	House	Senate		
Federal Prison System									
Buildings and facilities.	D77-21		1,900	10-01-76				-1,900 1/	0
TOTAL:			1,900					-1,900	0

1/ This deferral resulted from anticipated savings attributable to a plan for leasing a New York State correctional facility. The lease proposal on which the deferral was based was not accepted by New York and the funds are needed to construct the facility as originally planned. Funds related to this deferral were not withheld.

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Employment and Training Administration									
Advances to the unemployment trust fund and other funds	D77-39		2,919,000	12-03-76 12-28-76	-1,119,000				1,800,000
TOTAL:			2,919,000		-1,119,000				1,800,000

B-10

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Administration of Foreign Affairs									
Acquisition, operation, and maintenance of buildings abroad	D77-22		14,225	10-01-76					14,225
TOTAL:			14,225						14,225

B-11

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-77
Coast Guard									
Acquisition, construction and improvements..	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration									
Civil supersonic aircraft development termination.	D77-24	[464]		10-01-76					
				01-17-77				-464 1/	
	D77-24A		8,080	01-17-77					8,080
Facilities and equipment (Airport and airway trust fund).....	D77-25	[276,101]		10-01-76					
				01-17-77				-276,101 1/	
	D77-25A	[287,095]		01-17-77					
				03-09-77				-287,095 1/	
	D77-25B		278,095	03-09-77					278,095
Federal Highway Administration									
Trust fund share of other highway programs.....	D77-48		31,250	01-17-77					31,250
TOTAL:		563,660	340,006					-563,660	340,006

1/ Subsequently incorporated in a supplementary report.

B-12

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-77
Office of the Secretary									
Antirecession financial assistance fund.....	D77-57		6,030	04-28-77					
				05-01-77	-938				5,092
State and local government fiscal assistance trust fund.....	D77-26		113,732 1/	10-01-76					
				11-01-76	-28,433 1/				
				01-31-77	-28,433 1/				
				05-01-77	-28,433 1/				28,433 1/
State and local government fiscal assistance trust fund.....	D77-27	[10,000] 1/		10-01-76					
				12-03-76				-10,000 1/2/	
	D77-27A		21,075 1/	12-03-76					
				12-31-76	-16,853 1/				
				01-31-77	-1,590 1/				
				05-01-77				+12,860 1/	15,452 1/
State and local government fiscal assistance trust fund.....	D77-28		81,500	10-01-76					
				11-01-76	-226				
				12-01-76	-186				
				12-31-76	-7,888				
				03-01-77	-317				
				04-01-77	-4				
				05-01-77				+8,268	81,147
Loans to the District of Columbia for capital outlay.....	D77-36		51,002	11-05-76					51,002
TOTAL:			138,532BA		-9,559BA			+8,268BA	137,241BA
		10,000	134,807O		-103,782O			+2,860O	43,885O

1/ Outlays only.
2/ Subsequently incorporated in a supplementary report.

B-13

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy, Research and Development Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by CMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Operating expenses (Energy extension service)	D77-49		7,500	01-17-77 02-22-77				-7,500 1/	0
Operating expenses (Magnetic fusion energy)	D77-50		12,000	01-17-77		-12,000 2/			0
Operating expenses (Program support-community operations)	D77-51		5,400	01-17-77		-5,400 3/			0
Operating expenses (Biomedical and environmental research)	D77-52		8,200	01-17-77		-8,200 4/			0
Operating expenses	D77-55		80,500	04-04-77					80,500
Plant and capital equipment	D77-56		46,660	04-04-77					46,660
TOTAL:			160,260			-25,600		-7,500	127,160

1/ This adjustment reflects the impact of P.L. 95-3 which makes the source of ERDA's funding their regular 1977 appropriations, rather than the continuing resolution (P.L. 94-473), without need for enactment of authorizing legislation.
2/ Impoundment resolution H. Res. 305 passed the House on March 3, 1977, rejecting this deferral.
3/ Impoundment resolution H. Res. 306 passed the House on March 3, 1977, rejecting this deferral.
4/ Impoundment resolution H. Res. 307 passed the House on March 3, 1977, rejecting this deferral.

B-14

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by CMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Rare Silver Dollar Program	D77-29	[1,709]		10-01-76 01-07-77				-1,709 1/	
	D77-29A		1,797	01-07-77					1,797
TOTAL:		1,709	1,797					-1,709	1,797

1/ Subsequently incorporated in a supplementary report.

B-15

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Action									
Operating expenses, international and domestic programs.....	D77-40		550	12-03-76 12-31-76	-15				535
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims.	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration									
Commemorative activities fund.....	D77-31	[1,346]		10-01-76 01-07-77				-1,346 1/	
	D77-31A		198	01-07-77					198
Interstate Commerce Commission									
Payment for directed rail service.....	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year									
Salaries and expenses....	D77-33		680	10-01-76					680
U.S. Information Agency									
Salaries and expenses (special foreign currency program).....	D77-41		2,437	01-07-77					2,437
Special international exhibitions.....	D77-42		1,716	01-07-77					1,716
Special international exhibitions (special foreign currency program).....	D77-43		112	01-07-77					112

B-16

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
U.S. Railway Association									
Payments for the purchase of Conrail securities.....	D77-44		680,700	01-07-77 01-27-77	-162,000				518,700
TOTAL:		1,346	710,926		-162,015			-1,346	548,911
TOTAL, ALL DEFERRALS:		1,629,466BA 10,000O	7,085,611BA 134,807O		-2,026,892BA -103,782	-25,600BA		-2,123,498BA +2,860O	4,539,087BA 43,805O

1/ Subsequently incoporated in a supplementary report.

[FR Doc.77-13843 Filed 5-11-77;10:55 am]

federal register

MONDAY, MAY 23, 1977

PART IX

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Report to Congress

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Report to Congress

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $126.2 million appropriated for the Patrol Hydrofoil Missile program of the Department of Defense. In addition, I am reporting a deferral of $31.8 million for the Energy Research and Development Administration, Clinch River Breeder Reactor project, and revisions to two deferrals previously transmitted.

The details of the proposed rescission and the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, May 18, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Defense - Military:	
R77-14	Shipbuilding and conversion, Navy.....	126,212
Deferral #		
	Defense - Civil:	
	Corps of Engineers	
D77-53A	Construction, general.....	2,665
	Interior:	
	Bureau of Land Management	
D77-16A	Oregon and California grant lands.....	7,615
	Energy Research and Development Administration:	
D77-58	Operating expenses.....	31,800
	Subtotal, deferrals.....	42,080
	Total, rescissions and deferrals.....	168,292

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

	Rescissions	Deferrals
Twelfth special message:		
New items.....	126,212	31,800
Changes to amounts previously submitted...	—	-2,906
Effect of the twelfth special message...	126,212	28,894
Previous special messages.....	1,040,378	7,220,418
Total amount proposed in special messages...	1,166,590 (in 14 rescission proposals)	7,249,312 (in 58 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

Rescission Proposal No: R77-14

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Defense	New budget authority (P.L.) $
Bureau	Other budgetary resources 2,546,067,701
Appropriation title & symbol Shipbuilding and Conversion, Navy 175/91611 176/01611	Total budgetary resources 2,546,067,701 Amount proposed for rescission $ 126,212,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year Sept. 30, 1979 – Sept. 30, 1980 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

The funds proposed for rescission were appropriated specifically for the Patrol Hydrofoil Missile (PHM) program. As the result of an in-depth review of the program, it has been decided not to continue with procurement of follow-on Patrol Hydrofoil Missile ships. The Navy presently possesses one Patrol Hydrofoil Missile vessel, which is sufficient to conduct needed research in hydrofoil technology. The operational effectiveness of a second Patrol Hydrofoil Missile ship relative to other assets was judged to be insufficient to justify the cost involved. The accounts affected are as follows:

Shipbuilding and conversion, Navy	175/91611	$87,212,000
Shipbuilding and conversion, Navy	176/01611	39,000,000
Total		$126,212,000

Estimated Effects

The Department of the Navy's ability to successfully accomplish its mission would not be affected by this rescission proposal.

Outlay Effects (estimated in millions of dollars)

Comparison with the President's 1978 budget:

1. Budget outlay estimate for FY 1977	$2,983.0
2. Outlay savings, if any, included in the budget outlay estimate	0

Current outlay estimate for FY 1977:

3. Without rescission	2,983.0
4. With rescission	2,978.0
5. Current outlay savings (line 3 - line 4)	5.0
Outlay savings for FY 1978	24.0
Outlay savings for FY 1979	26.0
Outlay savings for FY 1980	26.0

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Shipbuilding and Conversion, Navy
(Including Transfer of Funds)

Of the amount appropriated under this head in the Department of Defense Appropriation Act, 1975, for the patrol hydrofoil missile program, $87,212,000 are rescinded.

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Shipbuilding and Conversion, Navy

Of the amount appropriated under this head in the Department of Defense Appropriation Act, 1976, for completion of the second PHM patrol hydrofoil missile ship, $39,000,000 are rescinded.

(Note: Two language proposals are required since the funds were appropriated in two separate acts.)

D77-53A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D77-53 transmitted to the Congress on March 24, 1977, and printed as House Document No. 94-511.

This revision for the construction, general account of the Corps of Engineers updates the basis for and estimated effects of the deferral. The review of water resources projects called for by the President has been completed. All funds for water resources projects previously deferred have been released except for $2,665,000 for the Meramec Park Lake project that will remain deferred pending a determination of close-out costs.

Deferral No: D77-53A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Army	New budget authority (P.L. 94-355) $1,436,745,000
Bureau Corps of Engineers, Civil	Other budgetary resources 141,889,603
Appropriation title & symbol Construction, General COE Civil 96X3122	Total budgetary resources 1,578,634,603
	Amount to be deferred: Part of year $ --- Entire year 2,665,000
OMB identification code: 96-3122-0-1-301	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ----
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ----

*Justification
The review called for by the President of all Federal water resources projects which may be environmentally damaging, economically marginal, or which pose safety hazards has been completed. As a result of the review, no 1978 funding is being requested by the President for the Meramec Park Lake, Missouri project. This deferral of 1977 funds for Meramec Park Lake will be maintained pending a determination of close-out costs associated with the project.

*Estimated Effects
The deferral of funds for Meramec Park Lake will delay the start of abutment preparation and some land acquisition. One contract at Meramec Park Lake is being delayed by this deferral action.

*Outlay Effect (Estimated in millions of dollars)

Comparison with President's FY 1978 budget:

1. Budget outlay estimate for FY 1977.....	$1,400.0
2. Outlay savings, if any, included in the budget outlay estimate.....	---

* Revised from previous report.

D77-53A

		2
Current Outlay Estimates for 1977:		
3.	Without deferral	$1,398.8
4.	With deferral	1,397.3
5.	Current outlay savings (line 3 minus line 4)	1.5
Outlay savings for 1978		---
Outlay savings for 1979		-1.5

D77-16A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D77-16, transmitted to the Congress on October 1, 1976, and printed as House Document No. 94-650.

Deferral No. D77-16, previously reported for the Oregon and California Grant Lands, was based on an estimate of the unobligated balance available at the end of the transition quarter. This supplementary report reflects the actual unobligated balance carried into fiscal 1977.

The revised deferral increases the amount withheld by $2.1 million from $5.4 million to $7.6 million. The deferral is planned to be in effect for all of fiscal 1977.

Deferral No: D77-16A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 94-373) $41,250,000 1/
Bureau Land Management	Other budgetary resources 11,221,153*
Appropriation title & symbol: 14x5136 Oregon and California Grant Lands	Total budgetary resources 52,471,153*
	Amount to be deferred: Part of year $; Entire year 7,615,053*
OMB identification code: 14-5136-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other Appropriated receipts

*Justification : The Interior and Related Agencies Appropriation Act for 1977 includes an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of Federal Oregon and California grant lands including the construction and maintenance of roads. Because the appropriation is based on the receipts collected in the same period and the receipts are based on the timber harvested, the total amount which will be available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

This deferral is consistent with 1977 program plans as described in the President's 1978 Budget. Receipts for FY 1977 are now estimated at $165 million, thus making $41,250,000 (25 percent) in new budget authority available under terms of the appropriation. The actual unobligated balance carried into FY 1977 is $11,221,153. Total resources for this program are $52,471,153. The current obligation program of $44,856,100 results in a deferral of $7,615,053. These funds are proposed for deferral through September 30, 1977.

1/Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."

*Estimated Effects: There will be no programmatic impact in FY 1977.

*Outlay Effect: There is no outlay effect of this deferral.

*Revised from previous report.

Deferral No: D77-58

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Energy Research & Development Administration	New budget authority (P.L. 94-355, P.L. 94-373) $4,669,338,000
Bureau	Other budgetary resources 1,802,626,059
Appropriation title & symbol	Total budgetary resources 6,471,964,059
Operating Expenses 89X0100	Amount to be deferred: Part of year $ 31,800,000 1/
Clinch River Breeder Reactor Plant Project	Entire year
OMB identification code: 89-0100-0-1-999	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 (expiration date)	☐ Contract authority
☒ No-year	☐ Other

Justification

The Administration has determined as part of its overall energy policy that the Clinch River Breeder Reactor Plant project (CRBRP) is not required at this time. The Administration proposes to send to the Congress a change to the project objectives, as required by section 106(b) of Public Law 91-273. The revised objective of the project is to complete systems design. This deferral is submitted for the 45-day period during which Congressional action is pending on the proposed revision in order to preclude obligation of funds for new contracts that would not be necessary under the proposed new project objective. If the new project objective is not disapproved by the Congress while the proposed amendment is pending, necessary funds will be made available following the 45-day period to meet the revised project objective.

Estimate Effects

This deferral, pending Congressional action on the proposed modification of the project objectives, will have no effect on current contracts but will preclude obligation of funds for new contracts.

1/ None of these funds are included in another Energy Research and Development Administration deferral, D77-55.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:	
1. Budget outlay estimate for 1977	$4,235.2
2. Outlay savings, if any, included in the budget outlay estimate	0
Current Outlay Estimates for 1977:	
3. Without deferral	4,000.0
4. With deferral	3,992.5
5. Current outlay savings (line 3 - line 4)	7.5 2/
Outlay savings for FY 1978	0
Outlay savings for FY 1979	0

2/ This "outlay savings" would be offset in future years beyond FY 1979.

[FR Doc.77-14703 Filed 5-19-77;3:22 pm]

Federal Register

MONDAY, MAY 23, 1977

PART X

FEDERAL TRADE COMMISSION

■

MOBILE HOME SALES AND SERVICE

Proposed Trade Regulation Rule

FEDERAL TRADE COMMISSION

[16 CFR Part 441]

MOBILE HOME SALES AND SERVICE

Final Notice Concerning Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final Notice of Proposed Rulemaking.

SUMMARY: Based on an investigation of the advertising, sales and service practices of the mobile home industry, the Federal Trade Commission on May 29, 1975 proposed a trade regulation rule covering mobile home sales and service. This notice sets out the scheduled oral hearing dates, invites continued written comments, and designates disputed issues. It also instructs prospective witnesses and other interested persons concerning filing and other procedural requirements and lists certain questions for the purpose of eliciting comment relative to the Commission's Proposed Rule.

DATES: Hearings commence: Washington, September 12, 1977; San Francisco, December 5, 1977. Word-for-word statements, outlines and exhibits (see Section C) due for hearings at Washington by August 22, 1977; and San Francisco by November 14, 1977; Notification of Interest (see Section F) due by June 13, 1977; written comments (see Section A) and available exhibits due by July 28, 1977.

ADDRESSES: Send comments to: Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Charles A. Taylor III, 202–523–3660, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C. 20580; or Fred C. Austin, 415–556–1270, Room 12470, Federal Trade Commission, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

SUPPLEMENTARY INFORMATION: On May 29, 1975, the Commission published in the FEDERAL REGISTER (40 FR 23334) an Initial Notice of a Proposed Trade Regulation Rule entitled "Mobile Home Sales and Service" (hereinafter the "Proposed Rule"), pursuant to the Federal Trade Commission Act, as ameded, 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's Procedures and Rules of Practice (hereinafter "Rules of Practice"), 16 CFR 1.7–1.20, and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure).

Now, pursuant to the same authority and more specifically to the authority of § 1.12 of the Rules of Practice, the undersigned duly appointed Presiding Officer for this proceeding hereby gives Final Notice of proposed rulemaking, incorporating by reference the contents of the Initial Notice described above.

SECTION A. WRITTEN COMMENTS

All interested persons are hereby notified that they may continue to submit written data, views, or arguments on any issue of fact, law, policy, or discretion which may have some bearing upon the Proposed Rule. Such written comments should be submitted to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, on or before July 28, 1977. Any comments relating to issues designated herein under § 1.13(d)(1) of the Rules of Practice (see Section E) should indicate the number of the issue being discussed. These issues have been "designated" only to indicate the issues with respect to which participants shall have the right to engage in cross-examination and rebuttal of witnesses pursuant to § 1.13(d)(5) and (6); they are not intended to limit the scope of written comments. To assure prompt consideration, comments should be identified as "Mobile Home Comments" and submitted, if at all possible and where not burdensome, in three copies. Comments previously submitted in response to the Initial Notice have been placed on the public record and need not be resubmitted.

SECTION B. PUBLIC HEARINGS: DATES AND PLACES

Notice is also given that public hearings on the proposed Rule will be held at the locations set forth below, commencing on the dates and times specified for each location:

1. Public hearing will be held commencing on September 12, 1977, at 9:30 a.m. in Washington, D.C., Room 532, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW.

2. Public hearing will be held commencing on December 5, 1977, at 9:30 a.m. in San Francisco, California, in Room 12470 of the Federal Building, 450 Golden Gate Avenue.

Consideration is being given to the possibility of a third public hearing at a location in the Southeastern United States. Interested parties who might prefer to participate in such hearings and who cannot appear in either Washington or San Francisco should write to Charles A. Taylor III, Federal Trade Commission, Washington, D.C. 20580 and give a brief indication of the general nature of their expected testimony. The date and location of any additional hearing would be announced in the FEDERAL REGISTER.

SECTION C. INSTRUCTIONS FOR WITNESSES

1. *Advance notice.* If you want to testify at a hearing, contact the Commission representative for that hearing immediately. This will enable us to assist you in complying with the requirements set forth below. You may testify at only one hearing.

2. *Notification and filing requirements.* a. If you want to testify at the Washington hearing, contact Charles A. Taylor III, 202–523–3660, Federal Trade Commission, Washington, D.C. 20580. You must notify Mr. Taylor of your desire to testify and file with him your word-for-word statement of testimony no later than August 22, 1977.

b. If you want to testify at the San Francisco hearing, contact Fred C. Austin 415–556–1270, Federal Trade Commission, Room 12470 Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. You must notify Mr. Austin of your desire to testify and file with him your word-for-word statement of testimony no later than November 14, 1977.

3. *Exceptions.* If you are unable to deliver a prepared word-for-word statement, you must file with the Commission representative at the location you desire to testify, a comprehensive written outline summarizing what you expect to say. Your comprehensive, written outline must list each fact, observation, opinion, and conclusion you are going to discuss and recite the basis for each such observation, opinion and conclusion. The outline must be filed prior to the applicable deadline specified in Section C2. If the outline you file is not sufficiently detailed or factual, the Presiding Office may require you to file a complete word-for-word statement before you testify.

4. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters.

a. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period (on or before July 28, 1977) so they can be studied by interested persons.

b. If such documents are unavailable during this period, file them as soon as you can but not later than the deadlines for filings statements or outlines (see Section C2).

c. Mark each document with your name, and number it in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits which are not furnished by the deadlines.

5. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitae, biographical sketch, resume or summary of your professional background and a bibliography of your publications. In addition it would be helpful if you would include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations from other works can be accomplished in the form of footnotes referring to those works in your statement.

6. *Results of surveys and other research studies.* If you present in your testimony the results of a survey or other research study, you must also present as an exhibit or exhibits in compliance with paragraph 4 above the following:

a. A complete report of the survey or other research study and the information and documents listed in (b) through

(e) if they are not included in that report.

b. A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

c. Copies of all questionnaires or interview reports that were filled in as a part of the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

d. A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

e. A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested parties may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon the request of the Presiding Officer who will then be in a position to permit their use by other interested parties or their counsel.

7. *General.* Copies of all materials filed by witnesses will be made available for examination at each hearing location specified above for the submission of such material. Any person who desires to obtain copies of the above materials for his own use must make arrangements in advance with the Commission representative specified above. To assure prompt consideration, materials required under this Section should be identified as "Mobile Home Statement" ("and Exhibits", if appropriate), and submitted when feasible and not burdensome in five copies.

8. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearance as well as that of other witnesses in an orderly fashion. Other interested parties must have your expected testimony or outline and supporting documents available for study before the hearing so they can decide whether to examine or cross-examine you or to file contradictory statements (rebuttals). If you do not comply with all the requirements, the Presiding Officer has the power to refuse to let you testify.

9. *Content of testimony.* In your testimony you can discuss any questions of fact, law or policy concerning the Proposed Rule. You do not have to limit your testimony to the issues designated in Section E; but if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons and there may be rebuttals. Also, the Presiding Officer may question you directly or let others cross-examine you about other issues.

10. *Procedures and time limits.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires. Ordinarily you will have about twenty minutes for your testimony. If you need more than twenty minutes, submit your request for extra time when you file your word-for-word statement or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning and further reserves the right to limit the number of witnesses to be heard, if the orderly conduct of the proceeding so requires. If you want to discuss more than can be presented in the time allotted to you, include all of the material in your word-for-word statement. Then you may summarize the statement in your testimony, and the entire written statement will be introduced into the record as an exhibit.

SECTION D. DESIGNATED ISSUES—PROCEDURES

1. The Presiding Officer has considered all proposed disputed issues of fact submitted by interested persons. Set forth under Section E are the issues which the Presiding Officer has determined to designate in his discretion pursuant to § 1.13(d) (1) of the Rules of Practice as issues to be considered in the proceeding in accordance with § 1.13(d) (5) and (6) of the Rules of Practice. Pursuant to statute and the Rules of Practice, any testimony with respect to these issues may entitle selected representatives of interested parties to conduct, or to have conducted, such examination, including cross-examination, of the person giving such testimony as the Presiding Officer may determine to be appropriate and to be required for a full and true disclosure with respect to any such designated issue. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral or written statements.

2. The Presiding Officer may on his own motion or pursuant to a written petition by interested parties, add to or modify the designated issues listed below at any time. Such a petition shall not be considered unless good cause is shown why the issue or modification was not proposed during the time specified in the Initial Notice.

SECTION E. ISSUES DESIGNATED UNDER § 1.13(d) (1) OF THE RULES OF PRACTICE[1]

WARRANTY PERFORMANCE SYSTEMS—GENERAL

1. Have mobile home manufacturer/warrantors engaged in acts and practices which have resulted in the failure to maintain regular and effective systems which assure that every "consumer" [§ 441.1(a)] of such manufacturer/warrantor's mobile homes in fact receive full performance of warranty repairs in accordance with the terms of any applicable warranty within a reasonable time?

DISCLOSURE OF THE NATURE OF WARRANTY RIGHTS

2. Have manufacturer/warrantors disseminated written warranties which fail to disclose the true nature and extent of consumers' warranty rights as well as the manner in which such manufacturer/warrantors perform warranty repairs in the "nomal course of business" [§ 441.1 (m)]?

a. Have manufacturer/warrantors failed to disclose to prospective purchasers the fact that those manufacturer/warrantors regard their "authorized dealer[s]" [§ 441.1(i)] as having exclusive responsibility, at least in the first instance, to perform repairs and service for certain classes of defects covered by each manufacturer/warrantor's warranty without compensation or reimbursement by such manufacturer/warrantors and without regular and effective action by such manufacturer/warrantors to determine whether such repairs and service are in fact fully performed within a reasonable time?

b. Have manufacturer/warrantors represented that their written warranties are the sole legal warranties, that they legally exclude and disclaim all implied-in-law warranties, and that their written warranties set forth the sole legal remedy available to the consumer and disseminated such written warranties to consumers in States where the applicable law renders such exclusions, disclaimers, or limitations unenforceable?

c. Have manufacturer/warrantors represented that as a condition precedent to obtaining full performance by manufacturer/warrantors of warranty obligations, every consumer must properly complete and mail to such manfacturer/warrantors an owner's registration card, or a similar card when in fact the manufacturer/warrantor's practice has been to provide warranty performance regardless of whether the card has been returned?

d. Have manufacturer/warrantors represented that as a condition precedent to obtaining full performance by manufacturer/warrantors of warranty obligations every consumer must transport the defective part or, if necessary, the entire home to the manufacturer/warrantor's manufacturing plant, when in fact it is the manufacturer/warrantor's practice to provide such performance at the homesite?

SELECTION AND MONITORING OF DEALERS

3. Have such manufacturer/warrantors failed to scrutinize, adequately evaluate and assure that all prospective dealers, prior to their authorization, are capable of willing to perform warranty service or that such dealers have made

[1] In this Section bracketed citations refer to the Proposed Rule in the Initial Notice and indicate that the preceding word or phrase enclosed in quotation marks is used in this Section as it is used or defined in the Proposed Rule.

adequate arrangements for performing warranty service through independent contractors?

4. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, notify the manufacturer/warrantor of the existence of claims initiated by consumers for warranty service or for repair of defects covered by the warranty?

5. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, in fact fully perform and complete within a reasonable time all warranty service and repairs to be performed on behalf of the manufacturer/warrantor?

6. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all prospective dealers, prior to their authorization, either directly or by action through independent contractors, are capable and willing to perform an "inspect[ion]" [§ 441.2(e)] of a mobile home prior to its "tender of possession" [§ 441.1(j)] to assure the detection of readily ascertainable defects and to assure that the home is being delivered to the consumer free of all defects which affect the safety of the mobile home or render it substantially uninhabitable and to assure that it is properly "set up" [§ 441.1(l)]?

7. Have manufacturers/warrantors failed to scrutinize adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, actually perform or assure the performance of, an "inspect[ion]" [§ 441.2(e)] of each mobile home prior to its "tender of possession" [§ 441.1(j)] to assure the detection of readily ascertainable defects and to assure that the home is being delivered to the consumer free of all defects which affect the safety of the mobile home and render it substantially uninhabitable and to assure that it is properly "set up" [§ 441.1(1)]?

8. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all prospective dealers, prior to their authorization, either directly or by action through independent contractors, are capable and willing to competently "set up" [§ 441.1(1)] the manufacturer/warrantors' mobile homes at the homesite selected by the consumer?

9. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, actually and competently perform the "set up" [§ 441.1(1)] of all of the manufacturer/warrantors' mobile homes?

CONSUMER COMPLAINTS AND REQUESTS FOR SERVICE

10. Have manufacturer/warrantors failed to establish and maintain an effective and regular program to ensure prompt action on and fair disposition of mobile home consumer complaints and requests for warranty service and repairs?

DISPUTES BETWEEN MANUFACTURER/WARRANTORS AND DEALERS

11. Have manufactur/warrantors unreasonably delayed needed warranty service or repairs until after the settlement of disputes between themselves and their "authorized dealer[s]" [§ 441.1(i)] or other third parties as to which party is responsible for the service or repairs in question?

FACTORY SERVICE CAPABILITIES

12. Have manufacturer/warrantors failed to maintain an adequate factory service capability, or to make other provisions adequate to assure the full performance within a reasonable time of the repair of defects which are covered by a warranty and which the manufacturer/warrantor's "authorized dealer[s]" [§ 441.1(i)] are unwilling or unable to perform?

WARRANTY PERFORMANCE—CONCLUSIONS

13. Through the acts and practices described in designated issues 2 through 12, have such manufacturer/warrantors been, and are they now engaging in:

a. The dissemination of warranties which fail to fully and completely inform actual or potential "consumer[s]" [§ 441.1(a)] as to the actual warranty protection offered by manufacturer/warrantors?

b. Acts and practices which have the tendency and capacity to result in and have resulted in the failure to establish or maintain regular and effective systems which assure that manufacturer/warrantors will fully correct or repair all defects covered by their warranties within a reasonable time?

ACTUAL PERFORMANCE

14. Have the warranty performance systems maintained by such manufacturer/warrantors impeded or delayed warranty performance beyond a reasonable time in a significant number of instances?

15. Have the warranty performance systems maintained by the manufacturer/warrantors prevented the performance of the manufacturer/warrantors' warranty obligations in a significant number of instances?

REASONABLE BASIS FOR WARRANTY CLAIMS

16. Do the acts and practices, as described in designated issues 2 through 12 above, if shown to exist, establish a lack of reasonable basis for those manufacturer/warrantors to believe that they can perform their warranty obligations within a reasonable time?

17. Does the dissemination of a warranty to consumers by a manufacturer/warrantor have the capacity or tendency to lead consumers to believe that the manufacturer/warrantor has a reasonable basis to believe that its warranty obligations can be fully performed within a reasonable time?

REPRESENTATIONS OF DIMENSIONS OF MOBILE HOMES

18. Have mobile home manufactures represented in promotional materials the length of their mobile homes as a certain distance which includes the length of the tow hitch? Do such representations have the capacity or tendency to mislead consumers by inducing them to believe that the represented length dimension is the total distance between the front and rear walls of the mobile home rather than the overall length of the mobile home including the tow hitch?

ECONOMIC EFFECTS

19. With respect to the Proposed Rule, what would be the probable economic effect on the mobile home industry, on small businesses, and on consumers of the promulgation of such provisions in a Final Rule?

SECTION F. NOTIFICATION OF INTEREST AND REQUESTS FOR CROSS-EXAMINATION

1. Interested persons who desire to avail temselves of the precedures of § 1.13(d) (5) and (6) of the Rules of Practice (described in Section D) must notify the Presiding Officer in writing no later than June 13, 1977, of their particular interest with respect to each designated issue, including a general, brief statement of their position with respect to such issue. Requests to examine, witnesses, including cross-examination, or requests to present rebuttal submissions shall be accompanied by a specific justification therefor. Such notifications shall be sent to the Presiding Officer and should be entitled "Mobile Home—Notification of Interest." The Presiding Officer retains the authority to refuse parties the opportunity to avail themselves of the procedures described in Section D if they fail to comply with the notification requirements of this Section. If new issues are designated, interested persons must, on or before a date specified by the Presiding Officer notify the Presiding Officer of their particular interest with respect to each such new issue in the same manner.

2. Before the public hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Groups with the same or similar interests will then be required to select a single group representative for the purpose of examination, including cross-examination and, if any group is unable to agree, the Presiding Officer may select a representative for that group. Any member of a group who is unable to agree upon group representation after a good faith effort to do so and who seeks to present substantial and relevant issues which would not be otherwise presented adequately by a group representative, may be allowed to conduct, or have conducted, any examination, including cross-examination or to present rebuttal submissions, on issues as determined by the Presiding Officer. Examination and cross-examination which is of an unduly cumulative or repetitive nature will not be permitted. Group representatives and Commission Counsel should be prepared to advise the

Presiding Officer or the Commission representative listed in Section C of the approximate time needed to cross-examine or examine each witness who is to testify and who furnishes a statement or outline under Section C.

SECTION G. ADDITIONAL COMMENTS REQUESTED

The Presiding Officer, in an earlier ruling[2] requested that Commission Counsel furnish information concerning possible conflicts between the Proposed Rule and the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq. ("Mobile Home Act"), and the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act ("Magnuson-Moss Act") and the regulations promulgated thereunder. The questions furnished below in response to the ruling are intended to elicit written comment and oral testimony from interested parties. These questions are not to be considered as designated issues, except to the extent that such matters have been generally incorporated into the designated issues in Section E. A staff statement which more fully discusses the subject matter highlighted in the following questions will be placed on the public record and will be available for inspection in Room 130 of the Public Reference Branch of the Federal Trade Commission, Washington, D.C. 20580. A copy will be sent upon request.

The staff is interested in encouraging the submission of written comments and oral testimony concerning possible alternatives to the present Proposed Rule and in response to questions raised in the Statement of Reason for the Proposed Rule, 40 FR 23338-40. For example would an alternative Rule which has a general requirement for warrantors to achieve a high level of warranty performance and to implement procedures which are "reasonably designed" to ensure such performance be preferable to a more structured Rule (such as the Proposed Rule) which would require the implementation by manufacturers of specific procedures which are fully set forth in the Rule? Are certain procedures so absolutely essential to have an effective warranty performance system that such procedures should be required by a Final Rule? If so, what are they?

Interested parties are invited to comment on the above and the following questions by the dates specified in Sections A and C of this Notice for written comments and oral statements:

1. *HUD Regulations.*

In light of the program established by the Mobile Home Act and the regulations promulgated thereunder ("HUD regulations"), should the Proposed Rule be revised? If so, what revisions are necessary or appropriate to avoid any potential overlap or inconsistency between the HUD regulations and any Final Rule? Among the items to be considered under this question are:

a. Would the "normal course of business" limitations on the time allowed for completion of repair of warranty defects set forth in §§ 441.2(b) and and 441.3(a) (2) and (3) of the Proposed Rule effectively take care of situations in which abnormal demands have been placed upon the service capability of manufacturers and their dealers and other third parties as a result of participation in a HUD notification and correction program pursuant to 24 CFR 3282.404, 3282.407, and 3282.409?

b. Should a Final Rule address a situation where HUD determines that a repair previously performed pursuant to a warranty should have been done differently or that additional repairs are necessary to correct a warranty problem on which a repair has already been performed? If so, how?

c. What should constitute "notice" of the need to perform warranty repairs and should the term be defined in a Final Rule?

d. Should § 441.8 of the Proposed Rule be eliminated from a Final Rule in light of the requirements for certification seals in the HUD regulations [24 CFR 3282.362(c) (2) (i) (C)]?

e. Should the reinspection requirement contained in §§ 441.2(f) and 441.3(a) (5) of the Proposed Rule be modified so as to eliminate the reinspection requirement for mobile homes which are not likely to experience settling? If so, how should it be modified?

2. *Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. §§ 2309 and 2310.*

The Commission has promulgated rules under the Magnuson Moss Act concerning Disclosure of Written Consumer Product Warranty Terms and Presale Availability of Written Terms ("warranty rules") (16 CFR Parts 701 and 702). The Proposed Rule addresses some of the same disclosure issues which are treated by the Magnuson-Moss Act and warranty rules. In view of this, are there particular circumstances in the mobile home industry which suggest that different or additional requirements (such as those in the Proposed Rule) should be applicable to the mobile home industry rather than those suggested by Magnuson-Moss Act warranty rules? Among the items to be considered under this question are:

a. Should the language contained in the warranty rules, 16 CFR 701.3 (which addresses the issue of full disclosure of warranty terms) be included in a Final Rule rather than the language in § 441.4 of the Proposed Rule?

b. Are there circumstances in the sale of mobile homes which indicate that the use of disclaimers, limitations, or exclusions should be more restricted in the Final Rule as suggested by § 441.5 of the Proposed Rule than the requirements set forth in Magnuson-Moss (15 U.S.C. 2304 (a) (2) and 2308) and the warranty rule set forth in 16 CFR 701.3(a) (7)?

c. Should § 441.6 (a) and (b) of the Proposed Rule which prohibits certain conditions to warranty performance be retained in a Final Rule in light of past practices in the industry, the nature of the product, and the warranty rules set forth in 16 CFR 701.3(a) (5) and 701.4, which deal with the same subjects?

SECTION H. ADDITIONS TO PUBLIC RECORD

All interested persons are hereby notified that the Commission has authorized its staff, through the Presiding Officer, to add certain materials to the public record of this proceeding. These materials were obtained during the course of prior Commission investigatory and consent order proceedings involving mobile home manufacturer/warrantors, other members of that industry and persons associated therewith. In order to facilitate public access to this material, staff through the Presiding Officer, has placed on the public record explanatory memoranda to assist those persons interested in examining these materials. A copy of the environmental impact assessment with respect to the Proposed Rule also has been placed on the public record. This material is available for examination by interested persons in Room 130 of the Public Reference Branch of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

Issued: May 20, 1977.

RAYMOND L. RHINE,
Presiding Officer.

The proposal as it appeared in the FEDERAL REGISTER of May 29, 1975 (40 FR 23334) is reprinted below:.

Sec.
441.1 Definitions.
441.2 Warranty performance systems.
441.3 Warrantor reliance on third parties.
441.4 Written warranties and other related documents.
441.5 Disclaimers, limitations, and exclusions.
441.6 Prohibited conditions precedent.
441.7 Dimensions of mobile homes.
441.8 Labels, seals, or certifications.

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41, et seq.).

§ 441.1 Definitions.

For the purpose of this part, the following terms and definitions shall apply:

(a) "Consumer" shall refer to a buyer (other than for purposes of resale) of a mobile home which is used or bought for use primarily as a place of residence, any person to whom such mobile home is transferred during the duration of an implied or written warranty applicable to the mobile home, and any other person who is entitled under the terms of such warranty or under applicable Federal or State law to enforce against the warrantor the obligations of the warranty.

(b) "Mobile home" refers to a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to

[2] Presiding Officer's Ruling Denying Motions of Guerdon Industries, Inc., Liberty Homes, Inc., and Moduline International, Inc., to Defer Proceedings and to Reconsider Previous Ruling, January 28, 1977, pp. 5 and 13.

the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(c) "Defect" refers to any non-conformity in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not in accordance with the obligations under the contract of sale or not fit for the ordinary use for which it was intended.

(d) "Written warranty" refers to:

(1) Any written affirmation of fact or written promise made in connection with the retail sale of a mobile home by a warrantor to a consumer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet, a specified level of performance over a specified period of time, or

(2) Any undertaking in writing in connection with the sale by a warrantor of a mobile home to refund, repair, replace or take other remedial action with respect to such mobile home in the event that such mobile home fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking becomes part of the basis for the bargain between a warrantor and a consumer of such mobile home.

(e) "Implied warranty" refers to an implied warranty arising under State law as modified, if at all, under Federal law.

(f) "Warrantor" refers to a corporation, a partnership, or other person engaged in the manufacture, wholesale or retail sale, offering for wholesale or retail sale, distribution, financing, or servicing of mobile homes produced or sold primarily for use by consumers, who gives or offers a written warranty or who is or may be obligated under an implied warranty.

(g) "Manufacturer" refers to any corporation, partnership, or person engaged in the manufacture, assembly, and wholesale sale of mobile homes, including any corporation, partnership, or person engaged in importing mobile homes for resale.

(h) "Corporate headquarters" refers to the location where the offices of the most senior officers in the hierarchy of a manufacturer's enterprise are located and/or where responsibility for management of the enterprise on a company-wide basis is generally exercised.

(i) "Authorized dealer" refers to a business enterprise, including but not necessarily limited to a corporation, a partnership, and an individual proprietor, neither owned nor controlled by a manufacturer, formed for the purpose of selling and servicing products, including but not limited to new mobile homes, from one or more established and recognizable locations, and which is authorized and approved by one or more manufacturers to buy and sell to consumers new mobile homes produced by said manufacturers.

(j) "Tender of possession" refers to the time when the mobile home has been properly set up at the consumer's home site and all necessary documents and keys are transferred to the consumer or the consumer's representative to enable the consumer to exercise the right to take possession and to complete delivery. *Provided, however,* That in cases where the initial set up of the home was arranged by the consumer and not by or through the manufacturer or authorized dealer, "tender of possession" refers to the time when all necessary documents and keys are transferred to the consumer or the consumer's representative to enable the consumer to exercise the right to take possession and to complete delivery.

(k) "Home site" refers to a plot of land designated by the consumer as the location where the mobile home is to be set up or the location where the mobile home has in fact been set up.

(l) "Set up" refers to the operation whereby a mobile home is installed, leveled, and tied down on a permanent foundation of cinder blocks, cement piers, steel horses, or the like which properly distribute and support its weight. In the case of double-wide and triple-wide homes, "set up" includes the assembly of the two or more units of the mobile home and the sealing of the seams. "Set up" may also include the connection of certain utilities in accordance with local law.

(m) "Normal course of business" refers to the usual or regular manner of operation of the business enterprise in question under ordinary conditions. "Normal course of business" does not include:

(1) Conditions under which abnormal demands are made upon service capabilities as the result of natural disasters, or other acts of God or the government, or any other event beyond the control of the warrantor and, where applicable, its authorized dealers or other third parties which places an unusually large demand upon service facilities; and

(2) Events such as disasters, strikes, acts of the government, instances of force majeure or other occurrences which are beyond the control of the warrantor and, where applicable, its authorized dealers and other third parties which prevent the warrantor and, where applicable, its authorized dealers or other third parties from responding to service requests within the time periods stated herein; and

(3) Slight omissions or deviations from the provisions of this part which are inadvertent, unintentional, and are not due to bad faith.

§ 441.2 Warranty performance systems.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a corporation, partnership, person, or other business entity to offer or otherwise provide, any written or implied warranty unless the warrantor establishes and maintains a regular and effective warranty performance system which is designed to assure that each consumer of mobile homes so warranted will receive full performance of all such warranty obligations either directly or by action through its authorized dealers or other third parties within the time period requirements set forth hereinbelow and unless the warrantor performs all of its obligations under such warranty within such time period requirements. An effective warranty performance system which is designed to assure that each consumer of a mobile home receives full performance of the warrantor's obligations under the warranty shall incorporate but not necessarily be limited to the following:

(a) The warrantor shall perform warranty service and repair obligations arising subsequent to the tender of possession of the home to the consumer by the warrantor, either directly or through an authorized dealer or other third parties at the site of the mobile home.

(b) The warrantor shall, directly or through an authorized dealer or other third parties, in the normal course of business, commence all warranty service or repair of defects giving rise to a condition which affects the safety of a mobile home or renders it substantially uninhabitable as soon as possible but in no event later than three business days following receipt of notice of such a defect by the warrantor from the retail purchaser or two business days following notice of the determination by the warrantor's authorized dealer or other third parties to rely upon the warrantor to perform or to complete service or repairs requested by consumers with respect to such defects. Such repairs are to be completed expeditiously.

(c) The warrantor shall, directly or through an authorized dealer or other third parties, in the normal course of business, respond to notice of the need for service and repairs of warranty defects other than those set forth in paragraph (b) of this section, within a reasonable time not to exceed seven business days of receipt of notice of such defects by the warrantor, its authorized dealer or other third parties, and complete such service or repairs within a reasonable time not to exceed thirty days following said receipt of notice.

(d) The warrantor shall assure that in the event of a bona fide dispute between the warrantor or its dealers and a consumer pursuant to § 441.3(f) of this part, as to whether the defect(s) complained of by the consumer are or are not covered by an applicable warranty, then: In the event it is determined that warranty service or repair is required, which determination shall be made promptly, the warrantor shall be allowed, notwithstanding the provisions of paragraphs (b) and (c) of this section with respect to the time allowances for repairs, in the normal course of business, from the date of notification of the dispute as set forth in this paragraph (d) of this section, no more than three business days in the case of defects referred to in paragraph (b) of this section to commence service or repair (such repairs to be completed expeditiously) and no more than thirty days in the case of de-

fects referred to in paragraph (c) of this section to complete service or repair.

(e) The warrantor shall, either directly or through its authorized dealers or other third parties, in the normal course of business, inspect each mobile home at the home site prior to or at the time of tender of possession to the consumer to assure that the home is being delivered to such consumer free of all defects which affect the safety of the mobile home or render it substantially uninhabitable and that it is properly set up.

(f) The warrantor shall, either directly or through its authorized dealers or other third parties, in the normal course of business, reinspect each mobile home within a reasonable time not to exceed 90 days after tender of possession of the home to the consumer to determine the existence of defects in the mobile home or problems relating to its setup, and to correct or arrange for the correction of defects within the scope of any applicable warranty, or improper setup and problems arising therefrom.

(g) Results of the inspections required pursuant to paragraphs (e) and (f) of this section shall be set forth in a report or reports which, if performed by an authorized dealer or other third party, shall be signed by said authorized dealer or other third party and shall be signed by the consumer or said consumer's representative indicating agreement with the information set forth therein. If no signature of the consumer or said consumer's representative appears on such a report, the authorized dealer or other third party shall certify that the necessary inspections and repairs were in fact accomplished and state in writing the reason for the absence of the signature of the consumer or said consumer's representative to the best of the authorized dealer's or other third party's knowledge and belief. Notwithstanding the provisions of paragraphs (e) and (f) of this section, in the event that the initial setup of the mobile home is not provided by or arranged through the warrantor or the warrantor's authorized dealer but is arranged independently by the consumer of such mobile home, there shall be no obligation to make those portions of the inspections described in paragraphs (e) and (f) of this section which cannot be accomplished prior to the initial setup.

(h) The warrantor shall, in the normal course of business, obtain information as to the date of purchase and the name and address of the consumer of each of its mobile homes and shall maintain adequate records of the information so ascertained.

(i) Where the warrantor chooses to delegate, assign, contract, or otherwise rely on a continuing basis upon any authorized dealers or any third parties not employees of the warrantor to satisfy the obligations assumed by the warrantor under any warranty, whether written or implied by law, then the warrantor shall assure that if a dispute or disagreement should arise between the warrantor and one or more of its authorized dealers or other third parties as to which of them is to incur any such obligation, burden, or responsibility or is to correct a malfunction related or alleged to relate to the set up of the warrantor's mobile homes, any and all necessary repairs or other corrective action will be expeditiously accomplished, regardless of whether the dispute or disagreement has been resolved. Nothing in this section shall be construed to preclude a warrantor from replacing a mobile home, refunding the purchase price or taking any other remedial action with respect to the mobile home which is within the scope of the terms of the written or implied warranty applicable to such mobile home; *Provided, however,* That such a refund, replacement or other remedial action with respect to a mobile home shall be delivered to the consumer within a reasonable time, taking into account the individual circumstances of each case, but in no event later than thirty days following the receipt of notice of the defect for which the remedy is provided.

§441.3 Warrantor reliance on third parties.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a mobile home manufacturer who is a warrantor to delegate, assign, contract with, or otherwise rely on a continuing basis upon any authorized dealers or any other third parties who are not employees of said manufacturer to: First, determine whether any mobile home constructed by the manufacturer contains any defects which are within the scope of any written or implied warranty or whether any such mobile home otherwise requires remedial action pursuant to any such warranty; second, notify the manufacturer of the existence of any such defects or need for remedial action pursuant to the aforesaid warranties; or third, perform any repairs or otherwise provide services in satisfaction of any warranty obligations incurred by the manufacturer, if the manufacturer shall fail to:

(a) Enter into a written service agreement with each such person desiring to be authorized to assume the responsibility of satisfying the manufacturer's mobile home warranty obligations on a continuing basis which sets forth the respective warranty service obligations to be discharged by the manufacturer and by the authorized dealer or other third party. Mobile home manufacturers who extend a warranty, express or implied, and rely upon authorized dealers or other persons not employees of said manufacturers to perform their warranty obligations shall require all such dealers and other persons to execute such agreements described herein within 180 days of the effective date of this part as a condition precedent to the manufacturer continuing the aforesaid delegation, assignment, contractual relationship or reliance subsequent to the 180th day following the effective date of this part. Dealers or the other third parties upon whom the manufacturer commences to rely, delegate, assign, or contract with as aforesaid after the effective date of the part shall execute such agreements prior to or at the time of said delegation, assignment, contracting, or reliance. Such agreements shall include but not necessarily be limited to:

(1) A clear and accurate description of the scope of those duties, burdens and responsibilities to be borne by the manufacturer and those to be borne by authorized dealers or other third parties as aforesaid and a statement as to the allocation of responsibility for the proper set up of mobile homes constructed by the manufacturer;

(2) The requirement that the authorized dealer or other third party as aforesaid shall, in the normal course of business, commence all warranty service or repair of defects which become necessary as a result of a condition which affects the safety of the mobile home or renders it substantially uninhabitable, as soon as possible but not later than three business days following receipt of notice of such defects or condition by the authorized dealer or other third party, and shall complete such service or repairs expeditiously. In those cases in which the authorized dealer or other party determines to rely upon the manufacturer to perform or to complete service or repairs requested by consumers on such defects, such determination shall be made and communicated to the manufacturer immediately upon such determination but no later than two business days following receipt of notice of such defect from the consumer;

(3) The requirement that except as set forth in paragraph (a)(2) of this section the authorized dealer or other third party as aforesaid must respond to a request for warranty repairs or service within seven business days of the receipt of notice and must complete all such warranty service or repairs within a reasonable time, not to exceed thirty days in the normal course of business, following receipt of notice of such condition by such authorized dealer or other third party. In those cases in which the authorized dealer or other third party determines to rely upon the manufacturer to perform or to complete such service or repairs requested by the consumer, such determination shall be made and communicated to the manufacturer as soon as possible but no later than five business days following receipt of notice from the consumer;

(4) The requirement that the authorized dealer or other third party as aforesaid must, in the normal course of business, inspect each mobile home at the home site prior to or at the time of tender of possession to the consumer to assure that the home is being delivered to such consumer free of all defects which affect the safety of the home or render it substantially uninhabitable and that it is properly set up. Such an inspection shall be reported in written

form to the manufacturer as described in paragraph (a)(6) of this section;

(5) The requirement that the authorized dealer or other third party as aforesaid must, in the normal course of business, reinspect each of the mobile homes constructed by the manufacturer at a reasonable time not to exceed 90 days following tender of possession of the home to the consumer to determine the existence of any defects in the mobile home or an improper set up or problems arising therefrom, and to correct or arrange for the correction of any such conditions. Such a reinspection shall be reported in written form to the manufacturer as described in paragraph (a)(6) of this section;

(6) The requirement that the authorized dealer or other third party as aforesaid in the normal course of business provide the manufacturer with written reports which document the results of the inspections set forth in paragraphs (a)(4) and (5) of this section. The signature of the consumer or the consumer's representative thereon shall be required as certification that the inspections and repairs alleged therein to have been completed were in fact accomplished to the best of his or her knowledge and belief. *Provided, however,* That if the signature of the consumer or the consumer's representative cannot be obtained, the authorized dealer or other third party shall so state in writing in the report and shall also state the reasons for the absence of the required signature to the best of his or her knowledge and belief. Notwithstanding the provisions of paragraphs (a)(4) and (5) of this section, in cases where the initial set up of the mobile home was not provided by or arranged through the warrantor or the warrantor's authorized dealer but was arranged independently by the consumer of such mobile home, there shall be no obligation to make those portions of the inspections described in paragraphs (a)(4) and (5) of this section which cannot be accomplished prior to the initial set up of the mobile home;

(7) The requirement that the authorized dealer or other third party as aforesaid establish and maintain, or contract for the services of personnel and facilities which are capable of providing all necessary warranty repairs and service within the time period requirements set forth in paragraphs (a)(2) and (3) of this section in the normal course of business.

(8) A statement that the manufacturer shall have the right to withdraw authorization from authorized dealers and other third parties as aforesaid who fail to meet their responsibilities under the written service agreement as set forth herein;

(9) A provision providing for the disposition of the manufacturer's continuing obligation, subsequent to the time that authorization has been withdrawn, to perform warranty service on mobile homes sold by the dealer until such time as the terms of all warranties outstanding on such homes have expired.

(b) Fully scrutinize and evaluate the number of personnel, level of expertise, and adequacy of facilities and equipment of such parties desiring to be authorized to perform warranty obligations incurred by the manufacturer on a continuing basis with respect to their ability to capably perform all necessary warranty service, repairs, and set up of said manufacturer's mobile homes within the standards to be set forth in the agreement prior to the authorization of a dealer or reliance upon any other third party as aforesaid. A check of credit references and other evidence of the financial standing of the dealer is not by itself sufficient to comply with the requirements of this paragraph. If a prospective authorized dealer chooses to rely on an outside service agency with respect to set ups, warranty repairs and service, the manufacturer shall satisfy itself as to the capability of said agency to perform adequate set ups and service through a regular procedure capable of providing a true and objective assessment of such agency's set up, repair, and service capability.

(c) Establish a regular procedure for the effective ongoing evaluation of the manner in which authorized dealers or other third parties as aforesaid maintain their service and set up capability and the manner in which they perform such warranty and set up responsibilities. Such a procedure shall include but not necessarily be limited to the dissemination of a questionnaire to all consumers who purchase the manufacturer's mobile homes at retail within 60 to 120 days subsequent to the date of tender of possession of the home to the consumer but in no event prior to ten days following reinspection of the home which inquiries as to the following:

(1) The existence of any defects in said mobile homes within the scope of the manufacturer's written warranty and any warranties implied by law or of an improper set up or any problems arising therefrom;

(2) The name of the person, if any, whom the mobile home consumer notified as to the existence of said defects or set up problems;

(3) The identity of any person who sought to service or repair any such defects or set up problems;

(4) Whether such defects or set up problems were fully repaired, the period of time required to effect such repairs, and the identity of the parties who accomplished such repairs;

(5) Whether the consumer is satisfied with the promptness and quality of the repairs made on his or her home to date. Such questionnaire shall be sent in the form of a pre-paid self-addressed postcard or a letter containing a pre-paid self-addressed envelope. Such a procedure shall also include regular periodic visits by one or more employees of the manufacturer to review the service facilities and personnel maintained by the authorized dealer or other third party. Such a visit and review shall be immediately initiated by the manufacturer upon the receipt of an unreasonable number of meritorious complaints or unsatisfactory reports, questionnaires or other similar communications from consumers. The manufacturer shall forthwith terminate its authorization of and reliance on authorized dealers or other third parties who fail to meet the responsibilities and standards set by the manufacturer pursuant to the written service agreement and this part.

(d) Assure that the person or persons to whom responsibility for supervising and assuring the implementation of the manufacturer's warranty service program is delegated shall make periodic reports at least on a monthly basis to the manufacturer's responsible officers. Such reports shall include but not necessarily be limited to current information concerning:

(1) The current cost to the manufacturer of warranty service;

(2) The incidence and nature of frequently recurring defects and of defects which have been determined to deleteriously affect the health and safety of the occupants of mobile homes containing such defects;

(3) Those measures undertaken in response to reports of defects described in paragraph (d)(2) of this section including but not necessarily limited to modification in production and design of the manufacturer's mobile homes;

(4) Analysis of the manner in which the manufacturer's employees, authorized dealers and other third parties are performing their warranty and set up reseponsibilities.

(e) With respect to manufacturers who produce in excess of 5,000 mobile homes annually, vest the direct administration of such manufacturer's warranty service program at the corporate headquarters level and the responsibility for supervising and assuring the implementation of the warranty service program in only those corporate officials who have no direct responsibilities on a day-to-day basis for the sale of the manufacturer's mobile homes.

(f) Establish a uniform procedure for the systematic receipt and analysis and fair disposition of all complaints or disputes which may arise between the aforesaid consumers of mobile homes constructed by the manufacturer and the manufacturer, its agents, assigns, successors, or other third parties including but not necessarily limited to the manufacturer's authorized dealers, with respect to any alleged warranty obligations of the manufacturer. Such a procedure shall incorporate but not necessarily be limited to:

(1) The prompt evaluation of and response by the manufacturer, directly or by action through a third party, in the normal course of business, to all complaints within a reasonable time not to exceed five business days after receipt of such complaints;

(2) With respect to manufacturers which produce in excess of 5,000 mobile homes annually, the designation of a single focal point within the corporation for the receipt of consumer complaints regarding warranty repairs or set up programs;

(3) An effective mechanism for the fair and impartial resolution of disputes

with respect to alleged warranty obligations. With respect to manufacturers which produce in excess of 5,000 mobile homes annually, the responsibility for resolving disputes through the above-described mechanism shall be vested in only those personnel who are not responsible for sales on a day-to-day basis;

(4) An accurate and complete record keeping system regarding the nature and disposition of all such disputes and complaints received by the manufacturer;

(5) Periodic review and evaluation by the manufacturer as to the effectiveness of such procedures and correction of such procedures where necessary;

(g) Maintain full and accurate records and to periodically review such records which shall disclose:

(1) The date of receipt, the disposition, and the date of disposition of each request for warranty service (including any refusal of a request for service or repairs and the reasons for such refusal) received by the manufacturer; and

(2) The results of the evaluations of service capacity provided for in paragraph (c) of this section and the results of any action taken with respect thereto.

§ 441.4 Written warranties and other related documents.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a warrantor who chooses to disseminate a written warranty not to provide consumers with a written warranty and other related documents which clearly and fully describe and effectively communicate to the consumer, in simple and readily understood language the manner in which the warrantor intends to provide for the performance of warranty obligations, including disclosure of any delegation of warranty responsibility to third parties; *Provided, however,* That disclosure of said delegation must be accompanied by additional disclosure that such delegation in no way relieves the warrantor of the ultimate responsibility to fulfill all warranty obligations.

§ 441.5 Disclaimers, limitations, and exclusions.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to suffer or permit mobile homes to be sold either directly or by action through a third party, without any written or implied warranties or limitations or exclusions of liability under any warranty or to disseminate or cause the dissemination of any statement or representation which represents directly or by implication that any written or implied warranty has been limited or excluded unless the person or persons so representing have a reasonable basis, in the form of an opinion by legal counsel, that said disclaimer, limitations and exclusions are enforceable under governing Federal and State law, and clear and conspicuous notice of such "as is" sale or other disclaimer, limitation or exclusion is given to prospective consumers of their mobile homes prior to the execution of the contract of retail purchase. *Provided, however,* That with respect to the "as is" sale of damaged, salvaged, demonstrator or repossessed mobile homes, the aforesaid opinion by legal counsel shall not be required. A clear and conspicuous notice of an "as is" sale shall contain the following language:

NOTICE

The manufacturer of this mobile home sells it "as is" and refuses to assume any responsibility for defects. The purchaser of this mobile home must accept it with all defects and take the entire risk, under contract law, as to its condition.

§ 441.6 Prohibited conditions precedent.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act, notwithstanding the provisions of § 441.4(g) for any warrantor of a mobile home to:

(a) Disseminate a written warranty or any documents associated therewith which require or purport to require the return of the home or any defective part thereof to the location of its manufacture as a condition precedent to obtaining warranty repairs or service;

(b) Disseminate a written warranty or any documents associated therewith which require or purport to require the return of a warranty card, owner's registration card, or any similar document bearing certain information about the consumer or the retail purchase transaction as a condition precedent to the validation of the warranty or as a condition precedent to the manufacturer's obligation to perform warranty repairs and service on said consumer's mobile home.

§ 441.7 Dimensions of mobile homes.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of the Act for any manufacturer of mobile homes to disseminate or cause the dissemination of any representation or statement which represents, directly or by implication, the dimensions of mobile homes unless the actual dimensions of the mobile homes, from exterior wall to exterior wall, and the dimensions of any tow hitch or other appendage, not part of said living space are clearly and conspicuously disclosed.

§ 441.8 Labels, seals, or certifications.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to use or disseminate any label, seal or certification which makes any representation, directly or by implication, as to the compliance of the mobile homes with any standard, code or the like regarding construction or performance characteristics without disclosing clearly, conspicuously and in close conjunction therewith exactly what said label, seal or certification means and what remedy, if any, is available to a consumer in the event that his or her mobile home is not in compliance with said code or standard. For example, a clear and conspicuous disclosure in close conjunction with a label, seal or certification attached to a mobile home which represents directly or by implication that the particular home is in full compliance with ANSI Standard A119.1 shall consist of the following:

There is no assurance by the manufacturer that this mobile home complies with every requirement of ANSI Standard A119.1. If you believe that this mobile home is not in compliance with ANSI Standard A119.1, the manufacturer suggests that you consult your warranty for instructions on obtaining necessary corrective action.

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