SUNSHINE ACT MEETINGS

WHITE CANE SAFETY DAY
Presidential proclamation

VOCATIONAL EDUCATION
HEW/OE implements regulations to assist States and Commissioner's discretionary programs (Part VI of this issue)

FLOOD CONTROL
DOD/Engineers proposes policy and procedures for regulating reservoir projects and use of storage allocated for flood control and navigation purposes; comments by 10-31-77

TRANS-ALASKA PIPELINE LIABILITY FUND
Interior provides instructions for reporting oil discharge incidents

CIVIL AIRCRAFT OPERATIONS
DOT/FAA proposes to revoke regulations prohibiting operation of civil aircraft between the United States and Canada or Mexico; comments by 1-3-78

CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM
USDA/CCC proposes regulations to protect U.S. exporters who sell agricultural commodities on deferred payment terms; comments by 11-2-77

REPROGRAMMED SPECIAL CRISIS INTERVENTION PROGRAM FUNDS
CSA waives the non-Federal share requirement in support of weatherization activities

ARCHITECTURAL GLAZING MATERIALS
CPSC proposes to amend safety standards; comments by 11-2-77 (3 documents) (Part IV of this issue)

RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM
NSF publishes draft guide for the preparation of proposals for FY 1978

TOXIC SUBSTANCES CONTROL
EPA issues supplemental notice to proposed inventory reporting requirements; comments by 11-2-77 and solicits comments by 10-13-77 on draft reporting forms (Part V of this issue)

CONTROLLED SUBSTANCES
Justice/DEA issues proposed 1977 revised aggregate production quota-mixed alkaloids of opium under Schedule II

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

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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.
INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

**FEDERAL REGISTER, Daily Issue:**
- Subscription orders (GPO) ........................................ 202-783-3238
- Subscription problems (GPO) ...................................... 202-275-3050
- "Dial a Regulation" (recorded summary of highlighted documents appearing in next day's issue). 202-523-5022
- Scheduling of documents for publication ........................................ 523-5220
- Copies of documents appearing in the Federal Register .................. 523-5240
- Corrections ........................................................................ 523-5286
- Public Inspection Desk ...................................................... 523-5215
- Finding Aids ....................................................................... 523-5227
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- SEC proposal regarding auditor changes; comments by 11-30-77 .......................... 53633

**RAIL CARRIERS**
- ICC adopts procedures governing general increases; effective 9-28-77 .......................... 53602

**STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**
- EPA proposes standards for stationary gas turbines; comments by 12-2-77 .......................... 53782

**HIGHWAY PROJECTS**
- DOT/EDA issues a memorandum of understanding with Commerce/EDA regarding the processing of direct or supplemental grant applications .......................... 53694

**FEDERAL AUTOMATED INFORMATION SYSTEMS**
- OMB issues a memorandum to the Heads of Executive Departments and Establishments concerning proposed policy for security and solicits public comments by 11-2-77 .......................... 53692

**TREASURY SECURITIES**
- Treasury/Secy announces auction of Series F-1982 notes .......................... 53695

**MEAT IMPORT-LIMITATIONS**
- USDA/Secy publishes fourth quarterly 1977 calendar year estimates .......................... 53649

**MEETINGS—**
- CRC: Pennsylvania Advisory Committee, 10-25-77 .......................... 53650
- Commerce/NOAA: South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council, 11-15 and 11-16-77 .......................... 53651
- Commission of Fine Arts, 10-25-77 .......................... 53654
- DOD/Secy: Armed Forces Epidemiological Board, 10-20 and 10-21-77 .......................... 53654
- Armed Forces Epidemiological Board, 10-25-77 .......................... 53655
- Defense Science Board Task Force on Counter-Communications, Command and Control (CP), 10-15-77 .......................... 53654
- EPA: National Drinking Water Advisory Council, 10-20 and 10-21-77 .......................... 53659
- Science Advisory Board, Environmental Health Advisory Committee, 10-19-77 .......................... 53659
- NRC: Advisory Committee on Reactor Safeguards: Environmental Subcommittee, 10-20-77 .......................... 53691

**RESCHEDULED MEETINGS—**
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- Part III, EPA ........................................................................ 53782
- Part IV, CPSC ....................................................................... 53798
- Part V, EPA ........................................................................ 53864
- Part VI, HEW/OE .................................................................. 53822
The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

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

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**FEDERAL REGISTER PAGES AND DATES—OCTOBER**

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### Table of Effective Dates and Time Periods—October 1977

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response. Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

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

A new table will be published monthly in the first issue of each month. All January dates are in 1978.

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### AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

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

**USDA—AGRICULTURE DEPARTMENT**
- AMS—Agricultural Marketing Service
- ARS—Agricultural Research Service
- ASCS—Agricultural Stabilization and Conservation Service
- APHIS—Animal and Plant Health Inspection Service
- CCO—Commodity Credit Corporation
- CEA—Commodity Exchange Authority
- CSRS—Cooperative State Research Service
- EMS—Export Marketing Service
- FAS—Foreign Agricultural Service
- FNS—Food and Nutrition Service
- FSQS—Food Safety and Quality Service
- FS—Forest Service
- PSA—Packers and Stockyards Administration
- RDS—Rural Development Service
- REA—Rural Electrification Administration
- RTB—Rural Telephone Bank
- SCS—Soil Conservation Service

**COMMERCE—COMMERCE DEPARTMENT**
- Census—Census Bureau
- DIBA—Domestic and International Business Administration
- EDA—Economic Development Administration
- MA—Maritime Administration
- MBE—Minority Business Enterprise Office

**DOD—DEFENSE DEPARTMENT**
- AF—Air Force Department
- Army—Army Department
- DCPA—Defense Civil Preparedness Agency
- DIA—Defense Intelligence Agency
- DLA—Defense Logistics Agency
- NTIS—National Technical Information Service
- NSA—National Shipping Authority
- NBS—National Bureau of Standards
- NFPCA—National Fire Prevention and Control Administration
- NOAA—National Oceanic and Atmospheric Administration
- PTN—Patent and Trademark Office
(The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

- Packaging of antibiotic drugs for parenteral use.............. 44225; 9–2–77
- Exemptions from performance standards for electronic products intended for U.S. government use........ 44228; 9–2–77
- Transfer agents; performance regulations........................ 32404; 6–24–77
- Special Representative for Trade Negotiations Office—Reviews pertaining to eligibility of articles for generalized system of preferences........ 45532; 9–9–77
- DOT/MTB—Longitudinal seams in pipe bends.................. 42865; 8–25–77

List of Public Laws

No public bills which have become law were received by the Office of the Federal Register for inclusion in today’s List of Public Laws.
Title 3—The President

PROCLAMATION 4528

White Cane Safety Day, 1977

By the President of the United States of America

A Proclamation

The white cane, an ingeniously simple device in an age of complex technology, helps assure that those with impaired or lost vision can lead rich and useful lives.

Remarkable progress in public attitudes toward blindness has been made in recent years. It is now widely understood that blindness need not be a barrier to full participation in social and economic life, and the white cane is responsible for some of this progress.

Nevertheless, in certain situations—on a busy street, near construction sites, or wherever there are unusual obstacles or hazards—a white cane user may still need help. Yet some people may be reluctant to offer it, for fear of saying or doing the wrong thing. Most blind people understand this hesitancy and are glad to explain their needs if they are asked.

The white cane also signals to motorists and cyclists that the user is blind—but it cannot signal the user that a vehicle is approaching. Thus it is the driver’s responsibility to exercise extra caution.

To heighten public awareness of the importance of the white cane to the independence and safety of thousands of blind and visually handicapped Americans, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003; 36 U.S.C. 169d), has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 15, 1977, as White Cane Safety Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

[FR Doc.77-2920 Filed 9-30-77 11:32 am]
Title I—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

NOTE: The CFR checklist appears at page 55257 of this issue.

Title 7—Agriculture

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

[Valencia Orange Reg. 574; Amndt. 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 September 23–29, 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.


SUPPLEMENTARY INFORMATION: 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 other available information submitted, the California Administrative Committee, established under the amended 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.

(a) Order, as amended. The provisions in paragraph (a) (1), (2), and (3) of §908.874, Valencia Orange Regulation 574 (42 FR 47819) are hereby amended to read as follows:

§908.874 Valencia Orange Regulation 574.

(a) * * * * * (1) District 1: 330,000 cartons; (2) District 2: 455,000 cartons.


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

[FR Doc.77-5910 Filed 9-30-77;8:45 am]

[Valencia Orange Reg. 574; Amndt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period October 2–8, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 2, 1977.


SUPPLEMENTARY INFORMATION: Findings: (1) Pursuant to a weekly regulation agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation, will tend to effectuate the declared policy of the act.

The committee further reports the demand for lemons continues good. Average f.o.b. price was $7.45 per carton the week ended September 24, 1977, compared to $7.34 per carton the previous week. Track and rolling supplies at 115 cars were down 5 cars from last week.

(1) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(2) Demand in the Valencia orange market has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, 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 relates restrictions on the handling of Valencia oranges.

(a) Order, as amended. The provisions in paragraph (a) (1), (2), and (3) of §908.874, Valencia Orange Regulation 574 (42 FR 47819) are hereby amended to read as follows:

§908.874 Valencia Orange Regulation 574.

(a) * * * * * (1) District 1: 300,000 cartons; (2) District 2: 455,000 cartons.


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

[FR Doc.77-5910 Filed 9-30-77;8:45 am]
RULES AND REGULATIONS

(a) Order. (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 2, 1977, through October 8, 1977, is established at 205,000 cartons. (2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(b) Dated: September 28, 1977.

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

FR Doc. 77-38065 Filed 8-29-77; 11:29 am]

[ 3410-02 ]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Minimum Grade, Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipment of Beurre D'Anjou variety winter pears shipped from Oregon, Washington, and California, and certain quality requirements for shipments from designated areas of Oregon and Washington, during the period August 8, 1977, through June 30, 1978. This action is necessary to assure that the pears shipped will be of suitable quality and size in the interest of consumers and producers.


FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: Findings. Notice was published in the Federal Register issue of August 18, 1977 (42 FR 41644), that the Department was giving consideration to a proposal submitted by the Committee to amend § 927.316 by changing the expiration date thereof from September 30, 1977, to July 30, 1978. An interested persons were invited to submit written data, views, or arguments on the proposal not later than September 9, 1977. No such material was received.

However, subsequent to the notice period, the committee recommended that the limitation specified in the regulation with respect to 180 size pears should not apply to pears of such size shipped in export markets. This recommendation is based on the current and prospective demand for such pears by export market outlets.

This amendment to Part 927 regulating shipments of the amended marketing agreement and Order No. 927 (¶ 927-927) regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), is hereby amended.

After consideration of all relevant matters presented, including the recommendations made by the committee and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that such cause exists for not postponing the effective date of this regulation until 30 days after publication in the Federal Register (5 U.S.C. 553). The provisions of this amendment are identical with the recommendations made by the committee and are hereby amended, should be extended without Interim Regulation for the remainder of the season; (2) compliance with the regulation will not require any special preparation on the part of handlers which cannot be completed in the effective time hereof; and (3) except for less restrictive size requirements on export shipments the provisions of this amendment are identical with the recommendations which was published in the aforesaid notice.

The provisions of § 927.316 (Pear Regulation 16; 42 FR 39670) are hereby amended to read as follows:

§ 927.316 Pear Regulation 16.

(a) During the period August 8, 1977, through June 30, 1978, no handler shall ship any Beurre D'Anjou variety of pears, except such variety grown in the Medford District, unless such pears meet the following requirements or are handled in accordance with paragraph (b) of this section: Provided, That, any Beurre D'Anjou pears shipped from the Medford District shall meet the requirements of subparagraph (2) of this paragraph.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall be grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 160 size and not less than 16 size, which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grade of such variety shipped by the handler, during the aforesaid period: Provided, That such limitation with respect to 160 size pears shall not apply to pears of such size shipped to export markets: Provided further, That, pears of such variety which bear unhealed skin punctures not exceeding 1/16 inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size: Provided, Further, That, pears of such variety which fail to meet the U.S. No. 2 grade requirements only because of serious damage but not very serious damage caused by healed hail marks or by frost, may be shipped if the shape of the pear is such that it will cut at least one good half;

(2) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Imnaha-Ontario area through Yakima Districts through November 1, 1977, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to entry in commerce, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of Beurre D'Anjou variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60(a), under the following conditions:

(1) Each handler desiring to make shipments of Beurre D'Anjou variety of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of each such shipment the inspector shall report to the committee on forms furnished by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears (7 CFR 61.3300-61.3325) ; "16 size," "160 size," and "135 size," shall mean that pears of such designated sizes will pack, in accordance with the sizing and packing specifications of a standard pack as specified in the United States Standards, 135, 160, or 165 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11 1/2 inches wide by 8 1/2 inches deep); and, except as otherwise specified, shall have the same meaning as when used in the amended marketing agreement and order.

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CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK) DEPARTMENT OF AGRICULTURE

Milk Order No. 1133
PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Suspending Certain Provisions and Termination of Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules and termination of proceeding.

SUMMARY: This action relates for September, October and November 1977 the limits on the amount of milk not needed for fluid use that may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension is based on a cooperative association's proposal considered at a public hearing held for this order on September 15, 1977, in Spokane, Wash. This action will aid in the continued association of milk of producers under the order.


FOR FURTHER INFORMATION CONTACT:


This order of suspension and termination of proceeding 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 order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of September, October and November 1977 the following provisions of the order do not tend to effectuate the declared policy of the Act and are hereby suspended:

1. In § 1133.13(e) (1) and (2), the words "50 percent in any of the months of September through March, and", and the words "in any of the months of April through August."

STATEMENT OF CONSIDERATION

This action increases the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of September, October and November 1977. In the case of a cooperative, the limit is increased from 50 percent of the total milk received at all pool plants or diverted therefrom for the operator of a pool plant, the higher 70 percent limit would apply to the milk received at or diverted from such pool plant from producers who are not members of a cooperative that has diverted milk. The order now permits diversions of up to 50 percent of such receipts for the months of September through March and 70 percent for all other months.

Such action is based upon a public hearing held for this order on September 16, 1977, at Spokane, Washington. A cooperative association that supplies the market with a substantial part of its fluid milk needs and handles most of the market's reserve milk supplies proposed that emergency action be taken to provide for the months of September, October and November 1977 the same diversion limits (a maximum of 70 percent) that apply during the milk production months of April through August. The proposal was unopposed at the hearing.

Reserve milk supplies in this market, most of which are diverted from pool plants to nonpool manufacturing plants by the cooperative, usually decline during the full months. However, beginning in September, milk supplies are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk.

At the hearing, the cooperative indicated that the present build up in the market's reserve milk supplies is largely due to a substantial increase in milk production by producers regularly supplying the market. Deliveries by producers are above year earlier levels (up over 10 percent for the first seven months of 1977 compared to the same months in 1976). At the same time, fluid milk sales have declined (down 2.4 percent during the first seven months of 1977 from the comparable period in 1976). Consequently, the need to divert additional reserve milk to manufacturing outlets, as indicated by the cooperative, will be necessary beginning in September. The cooperative also indicated that without immediate action, it expects that some of the milk of its member producers, who have regularly supplied the fluid milk needs of the market, and whose milk is expected to be needed when the supply-demand situation improves, will be excluded from the pool beginning in September. Immediate action is necessary to assure that producers who are regular suppliers of milk for the fluid market will continue to have their milk pooled and priced under the order. Any delay in relaxing the limits on diversions could deprive certain dairy farmers producer status under the order beginning in September. Therefore, this suspension order is the only practicable means of assuring continued producer status of certain dairy farmers associated with the market for September, October and November 1977. There is insufficient time to resolve the diversion problem for September on an amendatory basis, and amendatory action for November could be accomplished only through emergency procedures, which would entail the omission of a recommended decision and the opportunity to file exceptions thereto. It is concluded, therefore, that the requested relief for all three months should be resolved by this suspension and that the hearing proceeding be terminated.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the fluid market otherwise would be excluded from the market pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Producers requested this suspension at a public hearing held on September 15, 1977, and such action was not opposed.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended with respect to fluid milk marketing during the months of September, October and November 1977, and that the proceeding which began August 29, 1977 (Docket No. AO-275-A29; 42 FR 44249) is hereby terminated.

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


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

[FR Doc. 77-29011 Filed 9-30-77; 8:45 am]

[3410-02]
dye ever occurs first, or
b. delegated to me
in less than
the amendment may be made effective
den on any person, notice and public
Is being revised to .clarify the intended
FAA which required a one-time visual inspec-
ence, this
terial, on Boeing Model
made from
front spar junction fittings, which were
from 7079-79 aluminum alloy ma-
erial, on Boeing Model 727 series air-
planes. Due to adverse service experi-
ce, this AD superseded AD 77-10-08, which
required a one-time visual inspec-
tion within 750 flight hours and a one-
time eddy current or dye penetrant inspec-
tion within 8,000 flight hours.
After issuing Amendment 39-3034, the FAA
became aware that the first repetitive
inspection for airplanes inspected prior to
the effective date of the amendment,
September 12, 1977, may be re-
quired far earlier than intended. The
repetitive inspections would uninten-
tionally penalize operators.

Accordingly, paragraph C of the AD is being revised to clarify the intended
time frame for the initial repetitive
inspection of previously eddy current or
dye penetrant inspected airplanes.

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

**Drafting Information**

The principal authors of this document are
Gerald R. Mack, Engineering and Manufac-
turing Branch, FAA Northwest Region, and
Jonathan Kowal, Regional Counsel, Northwest Region.

**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, Amendment 39-
3034, AD 77-18-06, is amended by amend-
ing paragraph C to read as follows:

1. Except as provided for in paragraph C.2 below, repeat the inspections per para-
graph B of this AD at intervals of either a or b below:
   a. 1,500 flight hours time-in-service or nine
   (9) months from the last inspection, which
ever occurs first, or
   b. 3,000 flight hours time-in-service or
eighteen (18) months from the last inspec-
tion, whichever occurs first, if the fittings
are reworked in accordance with Boeing
Alert Service Bulletin No. 727-55-A69, Revision 1,
OR later FAA approved revisions, or in a man-
nier approved by the Chief, Engineering and
Manufacturing Branch, FAA Northwest
Region.

2. Airplanes which were inspected prior to
the effective date of this AD (September
12, 1977), and since April 20, 1977 (by
eddy current or dye penetrant methods
comparable to those specified in paragraph B
of AD 77-10-08), may be reinspected in ac-
cordance with a or b below but are subject
to the limitations set in c below:
   a. Within 5,000 flight hours time-in-service
   from the last inspection.
   b. Within 760 flight hours time-in-service
   from the effective date of this AD (September
   12, 1977).
   c. Notwithstanding the provisions of para-
graphs a and b above, the initial inspection
must be accomplished no later than nine (9)
months from the effective date of this AD
and thereafter at the intervals specified in
C.1.

The manufacturer's specifications and
procedures identified and described in
this directive are incorporated herein and
made a part hereof pursuant to U.S.C. 650(a)(1).

All persons affected by this directive
who have not already received these doc-
uments from the manufacturer, may ob-
tain copies upon request to Boeing Com-
mercial Airplane Co., P.O. Box 3707,
Seattle, Wash. 98124. These documents
may also be examined at FAA Northwest
Region, 9010 East Marginal Way South,
Seattle, Wash. 98108.

This amendment becomes effective Oc-

(1) Secs. 213(a), 691, and 693, Federal Aviation
Act of 1958, as amended (49 U.S.C. 1354(a),
1421, and 1423) and Section 6(c) of the
Department of Transportation Act (49 U.S.C.
1655(c)); and 14 CFR 11.80.

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

Issued in Seattle, Wash., on September

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

(1) [4910-13 ]

[FED REG. 77-28992 Filed 9-30-77; 8:45 a.m.]

[4910-13 ]

[Docket No. 14906; Amdt. 39-3050]

**Part 39—Airworthiness Directives**

Pilatus Aircraft, Ltd., and Fairchild Hiller
Model PC-6 Airplanes

**Agency:** Federal Aviation Administra-
tion (FAA), DOT.

**Action:** Final rule.

**Summary:** This amendment adopts a
new airworthiness directive (AD) which
requires repetitive inspections and anti-
rrosive treatment or replacement, if
necessary, of the wing struts on all
Pilatus Aircraft, Ltd., and certain Fair-
child Hiller Model PC-6 airplanes and of
the wing strut attachment brackets on Pilatus
Aircraft, Ltd., Model PC-6 airplanes. This AD
is required to prevent degradation of wing
strut and wing strut bracket structural
strength beyond safe limits which could
result in wing structural failure.

**DATES:** Effective November 3, 1977.

**Compliance schedule, as prescribed In
the body of the AD.**

**Addresses:** The applicable service
bulletins may be obtained from Pilatus
Aircraft, Ltd., 6570 Stans, Switzerland
and Fairchild Hiller, Division, Hager-
town, Md. 21740. Copies of these
bulletins are contained in the Rules
Docket, Rm. 916, 800 Independence Ave-
 nue SW., Washington, D.C. 20591.

**For Further Information Con-
tact:**

D. C. Jacobsen, Chief, Aircraft Certifi-
cation Staff, AEU-100, Europe, Africa,
and Middle East Region, Federal
Aviation Administration, O/o American Emb-
assy, Brussels, Belgium, Tel. 513.38.30.

**Supplementary Information:**
A proposal to amend Part 39 of the
Federal Aviation Regulations to include an
airworthiness directive requiring repeti-
tive inspections and anticorrrosive treat-
mint of the wing struts and the wing
strut attachment brackets on Pilatus
Model PC-6 airplanes manufactured by
Pilatus Aircraft, Ltd., was published in
the Federal Register at 40 FR 30980.
This proposal was prompted by reports of
corrosion developing inside the wing struts
and on the wing strut attachment
brackets of Pilatus PC-6 airplanes that
could result in weakening and eventual
damage of the struts and brackets with
consequent wing structural failure.

Interested persons were afforded an
opportunity to participate in the making
of this amendment. No comments were
received. However, the FAA has deter-
mind that certain Model PC-6 airplanes
manufactured by Fairchild Hiller are
subject to the same wing strut corrosion
problem as the Model PC-6 airplanes
manufactured by Pilatus Aircraft, Ltd.
Therefore, the applicability statement of
the proposal has been revised to cover
specified Fairchild Hiller Model PC-6 air-
planes. In addition, several clarifying
changes have been made to the proposal.
These include the addition of the words
“certificated in all categories” to the pro-
posal's applicability statement and the
reorganization of the proposal to more
clearly state the requirement for re-
placing struts or brackets. Since this AD
is needed to prevent wing structural fail-
ures in service, it is found that additional
notice and public procedure herein are imprac-
ticable.

**Drafting Information**

The principal authors of this document
are D. C. Jacobsen, Europe, Africa,
and Middle East Region, J. J. Presha,
Flight Standards Service, and R. Luco,
Office of the Chief Counsel.

**Adoption of Amendment**

Accordingly, pursuant to the authority
delegated to me by the Administrator,
§ 39.13 of the Federal Aviation Regula-
tions (14 CFR 39.13), Amendment 39-
3050, AD 77-18-06, is amended by adding
the following new airworthiness directive:

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Soil and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION:
A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an inspection of the "Aeroquip" fuel burner feed and manifold pipes and reworking or replacement, if necessary, of the pipes on certain Rolls Royce Dart engines, was published in the Federal Register at 42 FR 38387 on July 28, 1977. The proposal was prompted by reports of failures of the fuel burner feed and manifold pipes on certain Rolls Royce Dart engines that could result in fuel leakage and a fire. Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are R. E. Follensbee, Western Region, R. F. Nuscut and P. H. Kelley, Flight Standards Service, and E. May and E. Burton, Office of the Chief Counsel.

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

Rolls Royce Aero, Lm. Applies to Dart engines Series 500, 510, 511, 526, 528, 529, 532 and variants, installed on, but not necessarily limited to, BAC Viscount 764 and 765, FOD; Fokker F-27 ME. 100, 200, 300, 400, 600, 700; Fairchild F-27, 27A, 27B, 27E, 27S, 27T; Fokk2, Hiller FF-247, 247B, 247C, 247D; Armstrong Whitworth Argosy 650, Series 401; Grumman G-129; and Hawker Siddeley HS-748 Series 2A engines.

Compliance is required within the next 2,000 hours engine time in service after the effective date of this AD, unless already accomplished.

To prevent the failure of the fuel burner feed and manifold pipes that could result in fuel leakage and a fire, accomplish the following:

(a) Inspect the fuel burner feed and manifold pipes and determine if they meet both of the following specifications:

(1) The pipe is an "Aeroquip" pipe incorporating Dart Modification 1657 and having one of the following part numbers:

RE: 38427A Pipe Assembly—Fuel Feed to No. 4 Burner.
RE: 38428A Pipe Assembly—Fuel Feed to Nos. 1, 2 and 7 Burners.
RE: 38429A Pipe Assembly—Fuel Feed to Nos. 3 and 6 Burners.
RE: 38438A Pipe Assembly—Fuel Feed to No. 5 Burner.
RE: 38442A Fuel Manifold—Assembly No. 5 to F.C.U. Bulkhead Connection.

(2) The pipe was manufactured prior to March 1, 1974, and the metal identity tag located around the fireproof sleeve of the pipe (which contains the date of manufacture) has not been marked with (i) the month and day of manufacture [Francois B.S. No. or (ii) an engine number or a running time; (iii) a second date marking in brackets which is later than March 1, 1974, or the French letter "Z" (ZEC)].

(b) If, during the inspection required by paragraph (a) of this AD, a pipe is found that meets the specifications contained in

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paraphraph (a) of this AD, before returning the engine to service, inspect the pipe for the presence of corroded, cracked, or broken wires using DX or 10X magnification in accordance with the instructions contained in paragraphs 4A and 4B of Boeing Dayt Service Bulletin 7A-73, dated August 29, 1976 (hereinafter SB 7A-73), or an FAA-approved equivalent, and comply with paragraph (c) (d) or (e) of this AD, as applicable.

(c) If, during the inspection required by paragraph (a) or (c) of this AD, the wires are found to be corroded, cracked or broken, before returning the engine to service, replace the pipe with a serviceable pipe or replace the pipe in accordance with paragraph 4B(7) of SB 7A-73, or an FAA-approved equivalent.

(d) If, during the inspection required by paragraph (b) of this AD, the pipe is found to be serviceable, before returning the engine to service, clean and identify the pipe in accordance with paragraph 4B(7) of SB 7A-73, or an FAA-approved equivalent.

(e) The FAA-approved equivalent means of compliance specified in paragraphs (b), (c), and (d) of this AD must be approved by the Chief, Aircraft Certification, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, N.Y. 09007.

This amendment becomes effective November 3, 1977.

(1) Sec. 315(e), 261, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1055(c)); 14 CFR 11.29.

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 11281, as amended by Executive Order 11966, and OMB Circular 1-107.

Issued in Washington, D.C., on September 23, 1977.

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

[FR Doc. 77-28989 Filed 9-30-77; 8:45 am]

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

ALTERATION OF REPORTING POINTS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates two reporting points, one at FRIED and one at MOCHA intersections for use in both high and low flight operations. It also redesignates the MUZON reporting point to avoid having a single reporting point with two different names.

DRAFTING INFORMATION

This principal author of this document are Mr. Everett L. McElison, Air Traffic Service, and Mr. Jack P. Zimmermann, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (FARs) redesignates two reporting points, one at FRIED and one at MOCHA intersections. It also redesignates the MUZON reporting point to avoid having a single reporting point with two different names.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:


[FR Doc. 77–28989 Filed 9–30–77; 8:45 am]

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

ALTERATION OF FEDERAL AIRWAYS AND RESTRICTED AREA—CORRECTION

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the Federal Register of August 15, 1977, Volume 42, page 41110, a set of geographic coordinates were inadvertently omitted. This correction includes the geographic coordinates of "Lat. 20°30'–20' N., Long. 156°34'50" W.", which should have been included.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: FR Doc. 77–23324 was published on August 15, 1977 (42 FR 41110), with an effective date of October 6, 1977, and realigned a segment of VOR Federal Airways identified as V–2 and V–21 Hawaii and redefined Restricted Area R3104 Island of Kauhalewai, Hawaii. In the description of R–3104 a set of geographic coordinates were inadvertently omitted. Action is taken herein to correct this error.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 77–23324, appearing on page 41110 in the Federal Register of August 15, 1977, the amendatory language to § 73.31 is corrected to read as follows:

In R–3104A, R–3104B, and R–3104C Island of Kauhalewai, Hawaii, 20°30'–20' N., Longitude 156°34'50" W. for Latitude 20°30'–20' N., Longitude is corrected to read as follows:

In R–3104A, R–3104B, and R–3104C Island of Kauhalewai, Hawaii, 20°30'–20' N., Longitude 156°34'50" W. is corrected to read as follows:

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[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATIONS

REGULATIONS [Reg. OR-121, Amdt. 61]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NON-HARING MATTERS

Amendment of Delegation of Authority to the Bureau of Operating Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule grants the Bureau of Operating Rights delegated authority to dismiss, when technically inadequate, certain applications for removing or modifying restrictions in a certificate of public convenience and necessity. Since dismissal of such applications does not involve policy decisions, the Board initiated this rule to remove an administrative burden.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The Board’s regulations set forth special rules applicable to proceedings on certain applications for removal or modification of restrictions in certificates of public convenience and necessity. These rules are contained in Subparts M (§§ 302.1301-1315) and N (§§ 302.1401-1405) of the Board’s Procedural Regulations. They generally provide for a more limited evidentiary hearing and certain expedited procedures following the hearing.

Each subpart contains a provision that upon consideration of an application and responses filed under that subpart, the Board may dismiss the application, without prejudice to relitigating in amended form or under the normal certificate procedure, if the Board finds that the application is not in compliance with the provisions of the subparts. Such dismissals are based solely on technical compliance with the special rules set forth in Subparts M and N. No policy determinations are made by the Board.

In view of the above, the Board has determined that the administration and operation of its regulations will be improved by delegating to the Bureau of Operating Rights authority to dismiss Subparts M and N applications when they do not comply with the provisions of those subparts. By delegating this authority to the Bureau, the Board can relieve itself of an administrative burden in an area that does not require any policy decisions from the Board.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, and it is found that notice and public procedure are unnecessary, and that the rule may become effective immediately,

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

In § 385.13, a new paragraph (J) is added to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

(J) Dismiss applications under §§ 302.1301-1315 and §§ 302.1401-1405, without prejudice to relitigating in amended form or under the normal certificate procedure, if the application is not in compliance with the provisions of these sections.

By the Civil Aeronautics Board.

Phyllis T. Kayton, Secretary.

[FR Doc.77-23045 Filed 9-30-77; 8:45 am]

(6740-02)

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. 32177-G; Order No. 588-G]


Order

AGENCY: Federal Power Commission.

ACTION: Final rule.

SUMMARY: This order amends the Commission’s regulations implementing the Alaska Natural Gas Transportation Act of 1976. The Commission is required to submit a Report to the Congress commenting upon the President’s decision. The Report is due twenty days after the President’s transmittal. This order provides for designation of a group to prepare the Commission’s Report. It also provides that designated members are not bound by certain ex parte restrictions imposed previously.


FOR FURTHER INFORMATION CONTACT:

Brian J. Heilser, Office of the General Counsel, 202-275-4286.

SUPPLEMENTARY INFORMATION:

ORDER PRESCRIBING FURTHER PROCEDURES AND REQUIRING SUBMISSION OF THE COMMISSION’S GENERAL POLICY AND INTERPRETATIONS

Pursuant to Section 16 of the Natural Gas Act (52 Stat. 930, 15 U.S.C. 717q) and Sections 3, 5 and 8 of the Alaska Natural Gas Transportation Act of 1976 (90 Stat. 2904, et seq., 15 U.S.C. 719 et seq.), the Commission is hereby amending § 2.100 of its General Policy and Interpretations (18 CFR 2.100) to prescribe procedures for preparation of a report to the Congress commenting upon the President’s decision which is scheduled for September 1, 1977. In preparation of its Report the Commission is directed to submit its comment within 20 days of the President’s transmittal and to include any information with regard to the President’s decision which the Commission considers appropriate. This order expands the procedural schedule set out in Order No. 558, issued December 14, 1976, which culminated in the Recommendation to the President issued May 1, 1977.

In order to permit preparation of this report to the Congress in the 20 days allotted, it will be necessary to utilize all Commission employees without regard to their previous roles in the development of the record. In this regard an exception must be provided to the procedures previously adopted in Paragraph (e) of § 2.100. Paragraph A, Chapter 1, Title 18 of the Code of Federal Regulations, which presently provides as follows:


(o) The ex parte rule of the Commission, as set forth in 18 CFR 2.14(c), shall not apply hereunder except that the Commission or a delegate shall not receive communications regarding matters of substance from any of the following persons:

(1) Any applicant, or affiliate thereof, or any witness for an applicant.

(2) Counsel for any applicant or party to the proceeding;

(3) Any party or any witness for such party, if such person has advocated on the record the approval or rejection of any project proposed by any applicant.

The restrictions in this subsection shall not apply to written communications for presentation of or analysis of supplemental information or data that are received pursuant to the terms of Order 558-G.

The restrictions imposed in this section were designed in part to insure impartiality in the process through which the conditions of the parties, as considered and to allow a continued advocacy role for the Staff members who participated as a party throughout the hearing and in the oral argument. The consideration of the exceptions raised by the parties was concluded by the Recommendation to the President issued May 1, 1977, and Staff’s advocacy role


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was completed in oral argument. The rationale of subsection (e) with respect to Staff costs delineation thus no longer applies and should not remain in effect for the comment prepared pursuant to this order. Of course, the Commission in evaluating materials presented by Staff members will be cognizant of any position previously taken by such person.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Alaska Natural Gas Transportation Act of 1976 that § 2.100 of the Commission's General Policy and Interpretations be amended to provide for preparation of a report commenting on the President's decision as provided herein.

(2) In view of the purpose, intent and effect of the amendment, good cause exists for making it effective upon receipt of the report from the President.

The Commission, acting pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976, (90 Stat. 363, 15 U.S.C. 719 et seq.), particularly Sections 3, 5 and 8 thereof, and pursuant to the Natural Gas Act, particularly Section 16 thereof (52 Stat. 836, 16 U.S.C. 717d) orders:

Section 2.100, Part 2, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new paragraph (f) to read as follows:


(1) Notwithstanding the provisions of paragraph (d) of this section, the Chairman shall designate by letter persons to assist the Commission in preparation of its report to the Congress commenting upon the President's decision. Ex parte communications from such persons to the Commission in connection with this report.

By the Commission.

KENNETH F. PLUMS, Secretary.

[FR Doc. 77-39920 Filed 9-30-77; 8:46 am]

[6560-01 ]

Title 40—Protection of Environment
CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY
SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE
[FR 797-1]

PART 33—SUBAGREEMENTS
Minimum Standards for Procurement Under EPA Grants
AGENCY: Environmental Protection Agency.
ACTION: Interim rule.
SUMMARY: This amendment changes the effective date of the Interim sub-

agreement regulations to allow additional time to consider alternatives.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to October 1, 1977 (42 FR 33093).

By this section, the effective date is changed as follows:

EFFECTIVE DATE: These interim Part 33 subagreement regulations shall become effective on March 1, 1978, and shall govern all procurement actions under grants awarded on or after that date. Procurement actions initially awarded prior to March 1, 1978, are subject to these regulations if the grant (1) includes a special condition requiring compliance with 40 CFR Part 33, or (2) is a section 208 FWPCA grant subject to EPA Program Guidance Memorandum SAM—14 (published April 27, 1976, at 41 FR 17703).

Dated: September 27, 1977.

DOUGLAS M. COSTEL, Administrator.

[FR Doc. 77-39922 Filed 9-30-77; 4:06 pm]

[6315-01 ]

Title 45—Public Welfare
CHAPTER X—COMMUNITY SERVICES ADMINISTRATION
[CSA Instruction 6602-8]

PART 1068—GRANTEE FINANCIAL MANAGEMENT
Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is waiving the non-Federal share requirement for those funds which are converted from Program Account No. 22 in the Special Crisis Intervention Program to Program Account No. 21 in support of Weatherization.

GRACIELA (GRACE) OLYARE, Director.

45 CFR Part 1068 is amended by adding a new subpart as follows:

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

Sec. 1068.25—1 Applicability.
1068.25—2 Policy.

AUTHORITY: Sec. 602, 78 Stat. 530; (42 U.S.C. 1502).

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

§ 1068.25—1 Applicability.

This subpart applies to grants made under section 223(a)(15) of the Economic Opportunity Act of 1964, as amended, for the Special Crisis Intervention Program for all grants which were a part of the fiscal year 1977 Supplemental Appropriations.
§ 1068.25–2 Policy.

A waiver of the non-Federal share requirement is granted for those Special Crisis Intervention Program funds which were a part of the fiscal year 1977 Supplemental Appropriation, which could not be effectively spent under that program, and which, in accordance with the language of the Senate Appropriations Committee Report, are being converted from Program Account No. 22 to Program Account No. 21 to support weatherization activities.

[FR Doc.77-28912 Filed 9-30-77; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1276]

PART 1033—CAR SERVICE

Michigan Interstate Railway Company Authorized To Operate Portion of Former Ann Arbor.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1276).

SUMMARY: Service Order No. 1276 authorizes the Michigan Interstate Railway Company (MI) to operate over the former Ann Arbor (AA) line between Ann Arbor, Michigan, and Toledo, Ohio. Present operation of the entire line of the former AA between Toledo and Frankfort, Michigan, passing through Ann Arbor, is being terminated September 30, 1977, because of the cancellation of the operating agreement between the State of Michigan and ConRail. The portion of the railroad west of Ann Arbor will be operated by the MI as Designated Operator for the State of Michigan. The State owns the portion of the AA between Ann Arbor and Toledo, Ohio, and this portion is being leased to the MI. Operation by the MI over these tracks of the former AA between Ann Arbor and Toledo is necessary to continue essential rail service to shippers served by the line, and to maintain through connections with that portion between Ann Arbor and Frankfort.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 28th day of September, 1977.

The Michigan Department of State Highways and Transportation (State), the owner of the former Ann Arbor (AA) extending between Toledo, Ohio, and Ann Arbor, Michigan, and between East Pittsfield, Michigan, and Saline, Michigan, has entered into an agreement with the Consolidated Rail Corporation (ConRail) for operation of these lines on its behalf, effective at 12:01 a.m., October 1, 1977. These lines have been leased by the State to the Michigan Interstate Railway Company (MI), which will also become the designated operator for the State of the remaining lines of the former AA between Ann Arbor and Frankfort, Michigan, thence via car ferries between Frankfort and certain ports in Wisconsin on the west shore of Lake Michigan. Operation by the MI of the lines has leased from the State and of the additional lines as designated operator for the State must commence at 12:01 a.m., October 1, 1977, in order to provide uninterrupted rail service to shippers using these lines. In the opinion of the Commission, operation by the MI over these tracks of the former AA is necessary in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1276 Service Order No. 1276.

(a) Michigan Interstate Railway Company authorized to operate portions of former Ann Arbor. The Michigan Interstate Railway Company (MI) is authorized to operate over tracks of the former Ann Arbor (AA) between:

(1) Toledo, Ohio, and Ann Arbor, Michigan, a distance of 47.54 miles, and between;

(2) East Pittsfield, Michigan, and Saline, Michigan, a distance of 5.6 miles.

(b) Application. The provisions of this order shall apply to Intrastate, Interstate and foreign traffic.

(c) Rates applicable. Inasmuch as this operation by the MI over tracks previously operated by the Consolidated Rail Corporation (ConRail) and over tracks of the AA is deemed to be due to carrier's disability, the rail carrier facing traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect and to the rates prevailing on these lines since ConRail, until tariffs naming rates and routes specifically applicable via the MI become effective.

(d) In transporting traffic over these lines, the MI and all other common carriers shall proceed even though no interchange agreements or contracts, agreements, or arrangements with reference to the distribution of transportation applicable to that traffic now exist between them. Interchange arrangements and divisions shall be those in effect March 31, 1976, when operation of these lines by the former AA ceased, unless other interchange or division agreements have been voluntarily agreed upon between the carriers, or upon other bases for interchange or division of revenues have been established by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) Effective date. This order shall become effective at 12:01 a.m., October 1, 1977.

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15, and 17(2).) It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr., Acting Secretary.

[FR Doc.77-29017 Filed 9-30-77; 8:45 am]

[7035-01]

[Ex Parte No. 325]

PART 1091—PRACTICES OF FOR-HIRE MOTOR COMMON CARRIERS OF PROPERTY PARTICIPATING IN ALASKAN MOTOR-OCEAN-MOTOR (AMOM) SUBSTITUTED SERVICE

Substituted Service—Water-For-Motor Service (Fishyback Service)—Alaskan Trade

AGENCY: Interstate Commerce Commission.

ACTION: Rulemaking.

SUMMARY: In response to the June 28, 1976, notice of proposed rulemaking and order, the Administrative Law Judge to whom the rulemaking proceeding was assigned, after submission of pleadings in the matter, would impose rules and regulations to govern the use of substituted water-for-motor service in the Alaskan trade. The rules applicable to motor common carriers which hold operating rights between points in Alaska, on the one hand, and, on the other points in all or part of the 49 contiguous States, but which do not hold authorizing certificates to carry such traffic, the port points at which substitution by maritime water carrier would be effected.
RULES AND REGULATIONS

SECTION 1091—INTERSTATE COMMERCE COMMISSION—AMENDED

Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations is amended by adding a new part 1091, as follows:

§ 1091.1 Definition of AMOM Service.
§ 1091.2 Motor carrier operating rights requirement for participation.
§ 1091.3 Rate division arrangements with ocean carriers.
§ 1091.4 Tariff notice for AMOM Service and shipper designation.
§ 1091.5 Motor carrier bill of lading designation.
§ 1091.6 Motor carrier tariff inclusions for AMOM Service.
§ 1091.7 Motor carrier two-tier rate structure—conditions for use.

Authority: Secs. 553 and 559 of the Administrative Procedure Act (5 U.S.C.), the national transportation policy (49 U.S.C. section 1 and Parts I, II, III, and IV of the Interstate Commerce Act, and particularly sections 2, 3, 16(10), 16(12), 17(3), 204(a)(6), 205(a)(1), 208(b), 210e, 216(e), 218(d), 218(e), 219, 222, 254, 255, 297, 402, 403(s) and 406 of the Interstate Commerce Act (49 U.S.C.).

§ 1091.1 Definition of AMOM Service.

Alaskan Motor-Ocean-Motor (AMOM) Service means the use of a common carrier by water subject to the Shipping Act, 1916, as amended, (hereafter referred to as the ocean carrier) by an irregular route motor carrier authorized to transport property in substituted service between Seattle or Tacoma, Wash., and Anchor- age, Alaska. Ocean carriers, which have been operating between their respective ports and Seattle or Tacoma, Wash., as points where they would substitute the services of a maritime water carrier for movement between Seattle and Tacoma and Anchorage, Alaska. Objections were raised and the matter was subsequently placed in a rulemaking posture to ascertain the need for possible departure from prior Commission holdings regarding the need to have specific rights at the points where substituted service would be effected. The concerned parties desire to have rules promulgated in their favor which would also be willing to publish tariffs which hold out the possibility of year round and at lower rates than the Alcan route, or empty equipment to and from the seaport in Alaska, on the one hand, and, on the other, any points in the continental 48 States (hereafter referred to as the motor carrier) for the movement of its own empty equipment or empty equipment transported in substitute service between Seattle or Tacoma, Wash., and Anchor- age, Alaska.

§ 1091.2 Motor carrier operating rights requirement for participation.

All motor carriers authorized under irregular route authority to provide service between any point in Alaska, on the one hand, and, on the other, any point in the continental 48 States may tender empty or loaded equipment to and receive their previously-tendered empty or loaded equipment in AMOM Service from ocean carriers at a seaport in Alaska and Seattle or Tacoma, Wash.

§ 1091.3 Rate division arrangements with ocean carriers.

Motor common carriers may enter into arrangements with ocean carriers for the division of revenue derived from the operation of AMOM Service utilized.

§ 1091.4 Tariff notice for AMOM Service and shipper designation.

Motor carriers may participate in AMOM Service only if their tariff public-
their request. The Commission granted the petition to reopen. Technical changes in the regulations were made as set forth below, to eliminate any discrepancies in the data that arise from the use of the new Uniform System of Accounts. Schedules D, E, and F were simplified; instructions were clarified where warranted in all schedules, and errors in computations were corrected. Otherwise, no substantial changes were made in the rules and regulations.

**EFFECTIVE DATE:** Service date of order, September 28, 1977.

**FOR FURTHER INFORMATION CONTACT:**

**SUPPLEMENTARY INFORMATION:**
In the report and order in the above-entitled proceeding (351 I.C.C. 544 (1976)), as modified by order served February 5, 1977, certain regulations were provided for the filling and serving requirements of rail carrier submissions in a general freight increase proceeding. The respondent railroads, in petition for reopening of the reconsideration, filed April 28, 1977, showed that changed circumstances warranted the reopening of the proceeding. The Commission upon reopening the proceeding in its order served September 28, 1977, disposed of the arguments presented in respondents' petition.

**CHANGES IN SCHEDULES:**
Changes in the schedules were warranted in light of Docek's No. 35567, "Revision to the Uniform System of Accounts for Railroads," served June 24, 1977, to eliminate incompatible expense data which would arise from data based on two different accounting systems. The information to be submitted in some of the schedules was also simplified or clarified. Technical errors in mathematical computations or references to wrong lines were corrected. Recycled commodities not included in the list of commodities to be reported in Schedules C and H were also added in light of our investigation in Ex Parte No. 316, "Investigation of Freight Rates for the Transportation of Recyclable or Recycled Materials," served February 4, 1977. Respondents' request for major changes in the schedules, for example, the elimination of interterritorial district data in Schedule C, the elimination of Schedules G and H, the filing of some schedules on an annual basis etc., were denied, since these changes would deny the Commission and the parties of information needed to determine the justifiability of a general increase. Respondents' request that this proceeding be held in abeyance pending a decision in Ex Parte No. 338, "Standards and Procedures for the Establishment of Adequate Railroad Levels," or in the alternative, incorporation of this proceeding into Ex Parte No. 338, was also denied since that would unduly burden the record in that proceeding and in the interim, deny the Commission and the parties of evidence necessary to consider the merits of the general increase proposal.

The modified instructions and schedules which have been prescribed are set forth below across the page. The justifications for the changes are effective as of September 28, 1977.

By the Commission.

H. G. Homme, Jr., Acting Secretary.

Sec.

1102.1 Application.

1102.2 Data and information related to the last prior general increase.

1102.3 Financial and revenue need data.

1102.4 Cost and revenue data.

1102.5 Employment, wage, productivity, rate data.

1102.6 Affiliate data.

1102.7 Official notice.

1102.8 Service.

1102.9 Availability of underlying data.

49 C.F.R. 1102.1 through 1102.9 shall be revised as follows:

§ 1102.1 Application.

Upon the filing of tariff schedules containing proposed general increases in rates or charges, for the account of substantially all common carriers by railroad in the United States or in any of the three primary ratemaking territories, namely, eastern, western, or southern, or of a petition seeking authority to file such schedules by relief from outstanding orders of the Commission, or other relief related thereto, the carriers on whose behalf such schedules or petitions are filed shall concurrently therewith, file and serve as provided hereinafter, verified statements presenting and comprising the entire evidentiary case which is relied upon to support the proposed increases. Carriers subject to this rule are hereby notified that special permission to file general increase schedules shall be conditioned upon the publishing of an effective date at least 30 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with these regulations represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence previously submitted to reflect the contemporary situation. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act. An increase in freight rates or charges, by the carriers indicated, applying to a substantial number of commodities or services, for which the justification is revenue need, shall be deemed a general increase under this rule. Included within the verified statements required hereunder will be copies of a news release and a summary of the increase proposal as hereinafter described:

(a) **News release.—** A news release regarding the increase proposal will be prepared so that the public in general may be apprised of the proposal, and pursuant to this purpose will contain as a minimum essentially the following:

(1) A statement directed to the editor of a newspaper indicating that the news release has been prepared in accordance with regulations of the Interstate Commission and requesting that the information being forwarded be given prominent placement in the newspaper so that as large a segment as possible of the public may be apprised of the increase proposal.

(2) A description in language sufficient to apprise a reader who is not an expert in transportation matters, of the nature of the proposal including the amount of increase, the commodity, its geographic scope, and in general terms any holdowns, flagouts, or exceptions.

(3) A statement summarizing the supporting rationale for the increase including why it is needed, what it will accomplish, and in general terms accounting for the presence of the holdowns, flagouts, and exceptions.

(4) A statement indicating that copies of the proposal and supporting evidentiary material have been forwarded to regional and district offices of the Commission and State regulatory agencies responsible for such matters operated by the carrier and affected by the proposal; and indicating that the public may obtain copies of these documents by writing to "(Here the name and address of the carrier or publisher of a newspaper will be inserted)."

(b) **Summary.** A summary of the increase proposal, drafted in language directed at a reader who is not an expert in transportation matters, will be prepared in sufficient detail to apprise such a reader of the nature of the increase proposal. Pursuant to this purpose, included within the summary will be the following:

(1) A general description of the essentials of the increase proposal including its proponent(s), effective date, geographic scope, the amount of the increase, and a general description of holdowns, flagouts, and exceptions.

(2) A summary of the supporting rationale for the increase including why it is needed, what it will accomplish, and an explanation in general terms as to the presence of the holdowns, flagouts, and exceptions.

(3) A statement indicating that copies of the proposal and the entire evidentiary case in support thereof have been forwarded to regional and district offices of the Commission and to the State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and

(4) A statement as follows: "The proposed tariff contains the only legal terms of the increase binding on the parties." ["(And/or petition" if applicable].

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§ 1102.2 Data and information related to the last prior general increase.

Upon the filing of a petition for authority to publish a general rate increase, the following data and information shall be provided by individual class I railroads and summarized for each district and all districts combined for the period, beginning with the first day of the calendar quarter after the effective date of the last general increase to and including the last complete calendar quarter ending at least 31 days prior to the filing of a petition for a new general rate increase (hereinafter referred to as the study period); Provided, That in the event that the study period so determined fails to cover a minimum of one calendar quarter, then the study period shall begin with the effective date of the last general increase and run to and including the last complete month ending at least 31 days prior to the filing of a petition for a new general rate increase: And further provided, That in the event that the study period exceeds 18 months, the Commission may, at its discretion, shorten such period to the extent desired by it to be necessary, either upon its own motion or upon petition filed by the railroads.

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues, ton-miles, and revenue per ton-mile based on rates actually applied during the study period.

(3) Total estimated costs based on costs actually applied during the study period.

(4) Total actual costs based on charges actually applied during the study period.

(5) Total actual costs for the corresponding period (calendar quarters) in the year preceding the study period.

(6) Costs allocable to service and accessorial services such as collection on delivery and wharfage charges listed on page 13 of Tariff of Increased Rates and Charges, X-381-A:

(a) Total revenues for the study period if the last authorized increase had been fully applied.

(b) Total actual revenues based on charges actually applied during the study period.

(c) Total actual revenues for the corresponding period (calendar quarters) in the year preceding the study period.

(d) Total actual costs obtained by application of the last authorized general increase (item (2) less item (3)).

(e) Availability of underlying data. All underlying data used in preparation of the material outlined above shall be made available for inspection upon reasonable request in writing, and shall be furnished by the railroads to the Commission upon request. The underlying data shall be made available also at the

hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

§ 1102.3 Financial and revenue need data.

The railroads shall submit the data required in Schedules A, B, and I. The purpose of these schedules is to obtain such financial data as will facilitate an analysis of the financial posture and revenue needs of individual railroad companies, as well as groups of railroad by district (Eastern, Southern, and Western), and all groups combined, as appropriate. Petitioning railroads shall also submit such evidence as will permit a determination of the cost of debt and equity capital, and the respective amounts of this capital which they need to attract and retain in order to insure their financial stability and their capacity to render service.

§ 1102.4 Cost and revenue data.

(a) The railroads shall submit the cost and revenue data required in Schedule C (in four parts). The purpose of Schedule C is to obtain, for the time periods therein provided, cost and revenue data as applicable to specific commodities transported by individual railroads in Eastern, Southern, and Western districts, by district totals and for districts combined.

(b) To develop these data, traffic and cost studies will be required. The traffic studies should take into account, among other things, (1) to determine the number and kind of traffic service units to which the appropriate service unit costs should be applied, and (2) develop the actual revenues associated with the transportation of specific commodities. The cost study should develop the appropriate service unit costs referred to in subparagraph (1) of this paragraph.

(c) Both the traffic and the cost study should be developed for the same year. The study year shall be referred to as the "Base Period (year) - actual." That year shall be the four-quarter period ending no later than 4 months prior to the filing date of the proposed rate increase.

(d) The traffic study shall include a probability sampling of the actual traffic handled during identical time periods for each study carrier (each class I line-haul railroad) and shall be statistically valid at the individual study carrier level. The sample shall be taken according to acceptable standards of probability sampling principles and practices. The carriers shall explain and evaluate the probability sample from the standpoint of purpose, sample design (including expansion of estimation procedure and disclosure of sampling criteria), quality control aspects involved in processing and tabulating data, and any statistical analysis performed on the sampled data.

(e) The cost study shall be based on service unit costs developed for each individual study carrier through the use of Rail Form A costing procedures. These service unit costs should be properly adjusted, if necessary, to reflect the transportation characteristics of the specified commodities and shall be applied to the respective individual carrier's traffic service units. The carriers shall submit the data required from their traffic study. Since the determination of relative revenue/cost relationships among the various commodity movements is important, the Rail Form A costing technique is required. However, this requirement does not preclude the use of other uniform costing procedures the result of which may be submitted in addition to the Rail Form A costs. In this event appropriate explanation of the principles and procedures must be furnished.

(f) The carriers shall be allowed to use appropriate mileage per diem rates, or both, increased for general overhead for the car(s) being sampled, as an alternative to Rail Form A car costs.

(g) The cost study shall be based on two service units: cost of service and revenue, either as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). The latter level is similar to the "fully allocated expense level" described by the Commission in Docket No. 34013; Rules to Governing Assumptions and Presenting Cost Evidence, 337 I.C.C. 298, but excludes return on invested capital from its traffic study. Since the determination of revenue/cost relationships among the various commodity movements is important, the Rail Form A costing technique is required. However, this requirement does not preclude the use of other uniform costing procedures the result of which may be submitted in addition to the Rail Form A costs. In this event appropriate explanation of the principles and procedures must be furnished.

(h) Traffic and cost study data shall be developed for the following time periods; (1) the "Base Period (year) - actual".

The following illustrates the base period (year) - actual depending on when the proposal is filed. These dates would apply in all schedules where the base period (year) - actual is used unless specified otherwise:

<table>
<thead>
<tr>
<th>Filing date of proposed increase</th>
<th>Base period (year) - actual (four quarter period ending)</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
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</tr>
<tr>
<td>February</td>
<td>September 30, preceding year.</td>
</tr>
<tr>
<td>March</td>
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<td>April</td>
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</tr>
<tr>
<td>December</td>
<td>December 31, preceding year.</td>
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</tbody>
</table>

*Although not adopted by the Commission, attention is called to a staff report "Guidelines for the Presentation of the Results of Sample Studies," February 1, 1971, available from the Superintendent of Documents, Washington, D.C.*
railroads' annual and quarterly reports the effect on the carriers' profits of nationwide basis. The purpose of this be submitted as a composite district and the purpose of this particular section. In normally considered in the course of rail-

§ 1102.5 Employment, wage, productivity, and rate data.

(a) The class I railroads shall submit the wage, operations, productivity and other statistical data required in Schedules D through G. A major purpose for the supporting data required in these schedules is to measure the validity of the total increases in railway operating expenses shown in Schedule B, pro forma year over the base year-actual. Since Schedules E and F represent only the major segments of railway operating expenses, it is realized that the totals of those schedules will not reconcile to Schedule B, Line 2. Data required in Schedules D through G are required only by district groupings of carriers in the Eastern, Southern, and Western districts, and for all districts combined. The time periods required to be used are the base year-actual, the pro forma period (the "base year-actual" restated to reflect conditions prevailing on or near the effective date of the proposed general increase).

(b) The class I railroads shall also submit the data required by Schedule H which develops specific rate and revenue information to measure the revenue impact of holdovers and other exceptions proposed by the carriers.

§ 1102.8 Service.

(a) The detailed information called for herein shall be in writing and shall be verified by a person or persons having knowledge thereof. The original and 24 copies of each verified statement for the use of the Commission shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent by first-class mail to each of the regional offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection.

(b) A copy of each statement shall be mailed by first-class mail to each party of record in the last formal proceeding concerning a general rate increase nationally or in the affected area or territory, and to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal, and that fact shall be evidenced by a certificate of service filed with the petitions. Where service is made by mail, the statements shall be mailed in time to be received on the date the original is filed with the Commission. A copy of such statement shall be furnished to any interested person upon request.

(c) A copy of the news release, whose contents are described in § 1102.1 above, will be transmitted to the major news wire services and the principal newspaper of general circulation in the capital and four largest cities of all States served by the carrier and affected by the proposal. For the purpose of this requirement, the principal newspaper of general circulation is that newspaper of general circulation published in a city having the largest average daily circulation, where service is made by mail, the news release shall be mailed in time to be received on the date the original is filed with the Commission.

(d) The fact of service as herein required shall be evidenced by a certificate of service filed with the petition.

§ 1102.9 Availability of underlying data.

All underlying data used in preparation of the material outlined above shall be made available in the office of the party serving such verified matter during usual office hours for inspection by any party of record desiring to do so, before hearing, or when no hearing is held, and shall be made available to the Commission upon request therefore. The under-

§ 1102.7 Official notice.

Official notice will be taken of all the railroads' annual and quarterly reports on file with the Commission.
<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Source A</th>
<th>Calendar Yr</th>
<th>Calendar Yr</th>
<th>Base Year-Actual</th>
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<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Depreciation &amp; retirements-equipment</td>
<td>A R Sch 300, Total Depr &amp; Retire Colts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Long-term debt due within one year</td>
<td>A R Sch 200, Acct. 764</td>
<td>766, 765, 766, 765</td>
<td>765 5, 765, 765, 770 1 &amp; 770 2</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Long-term debt due after one year</td>
<td>A R Sch 200, Total of Accts 765, 767, 766, 766 5, 765, 765, 770 1 &amp; 770 2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Long-term debt due after one year?/</td>
<td>See L. 5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Income available for fixed charges</td>
<td>A R Sch 300</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Fixed and contingent charges</td>
<td>A R Sch 300, Add Accts 546, 547 &amp; 548</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Operating expenses</td>
<td>A R Sch 300, Acct. 531</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Operating revenues</td>
<td>A R Sch 300, Acct. 507</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Net railroad operating income</td>
<td>A R Sch 300, Footnote</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Provision for deferred taxes</td>
<td>A R Sch 300, Acct 557</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Equity in earnings (losses) of affiliated companies</td>
<td>A R Sch 300, Income from affiliated Cos.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Total current assets</td>
<td>A R Sch 200, Total current assets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Total current liabilities</td>
<td>A R Sch 200, Total current liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Shareholders' equity</td>
<td>A R Sch 200, (net) stockholders' equity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Shareholders' equity?/</td>
<td>See L. 6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Cash dividends paid</td>
<td>A R Sch 305, Acct. 623</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Interest expense, amortization of discount on funded debt, contingent interest and release of premiums on funded debt</td>
<td>A.R. Sch. 300, Accts 546 (int. exp.) + 547 + 548+ 546 (contingent interest) - 517</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Net investment in railroad property</td>
<td>(A.R. Sch. 200, Accts. 701 + 712) + (Sch 211 H-1, Line 39, col. (d) minus col. (e))</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Net investment in railroad property?/</td>
<td>See L 20</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Current ratio</td>
<td>L -74 + L 15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Dividend pay-out ratio</td>
<td>L 7 + L 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Rate of return on net investment in railroad property</td>
<td>L 1 + L 21</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Rate of return on shareholders' equity</td>
<td>L 1 + L 17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Cash flow</td>
<td>L 7 + L 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Cost of goods sold</td>
<td>L + L 15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Capital structure ratio</td>
<td>L 5 + L 16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Fixed and contingent charge coverage (times)</td>
<td>L 7 + L 10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Ratio of operating expenses (includes net rents) to ry. operating revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1/ Annual report sources refer to 1976 proposed Annual Report Form R-1. For years subsequent to 1976, use the comparable annual report sources. For years prior to 1976, see Conversion Table for Schedule A.
2/ See L 20
3/ See L 20
4/ Annual Report Sch 2114 provides year-end data only. Refer to prior annual reports for comparable beginning-of-year data.
<table>
<thead>
<tr>
<th>Line No.</th>
<th>Item</th>
<th>Source: Proposed 1978 A.R. Form R-1</th>
<th>Comparable Data from 1977 Annual Report, R-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Net Income</td>
<td>A.R. Sch. 300</td>
<td>A.R. Sch. 300, L. 69, Col. (b)</td>
</tr>
<tr>
<td>4.</td>
<td>Long term debt due within one year</td>
<td>A.R. Sch 200, Acct. 764</td>
<td>A.R. Sch. 200, L. 65</td>
</tr>
<tr>
<td>5.</td>
<td>Long-term debt due after one year</td>
<td>A.R. Sch. 200, Total of Accts. 765, 767, 766, 766.5, 768, 769, 770.1 &amp; 770.2</td>
<td>A.R. Sch. 200, L. 74</td>
</tr>
<tr>
<td>6.</td>
<td>Long-term debt due after one year</td>
<td>See L. 5</td>
<td>See L. 5, above</td>
</tr>
<tr>
<td>(avg. bea. and end-of-year)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Fixed and contingent charaes</td>
<td>A.R. Sch. 300 add Accts. 546, 547 and 548</td>
<td>A.R. Sch. 300, add Accts 546, 547, and 548</td>
</tr>
<tr>
<td>10.</td>
<td>Railway operating revenues</td>
<td>A.R. Sch. 300, Acct. 501</td>
<td>A.R. Sch. 300, Acct. 501, L. 1, Col. (b)</td>
</tr>
<tr>
<td>11.</td>
<td>Net railway operating income</td>
<td>A.R. Sch. 300, footnote</td>
<td>A.R Sch 300, L. 22 minus taxes applicable to Accts. 560 A 662 (footnote)</td>
</tr>
<tr>
<td>13.</td>
<td>Equity in earnings (losses) of affiliated companies</td>
<td>A.R. Sch. 300, Income from affiliated cos/Dividends/Equity in undistributed earnings (losses)</td>
<td>A.R. Sch. 300, L. 36</td>
</tr>
</tbody>
</table>
### Schedule A Conversion Table

For comparable data for 1977 and prior years to 1978

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Item</th>
<th>System of Accounts Effective 1/1/78</th>
<th>System of Accounts Prior to 1/1/78</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.</td>
<td>Total current assets</td>
<td>A.R. Sch. 200, Total current assets</td>
<td>A.R. Sch. 200, L. 15</td>
</tr>
<tr>
<td>15.</td>
<td>Total current liabilities</td>
<td>A.R. Sch. 200, Total current liabilities</td>
<td>A.R. Sch. 200, L. 64 + Acct. 764, L. 65</td>
</tr>
<tr>
<td>17.</td>
<td>Shareholders' equity (avg. beg. and end-of-year)</td>
<td>See L. 16</td>
<td>See L. 16, above</td>
</tr>
<tr>
<td>19.</td>
<td>Interest expense, amortization of discount on funded debt, contingent interest and release of premiums on funded debt</td>
<td>A.R. Sch 300, Accts. 546 (Int. exp.) + 547 + 548 + 546 (contingent int ) - 517</td>
<td>A.R Sch. 300, L 50 + 51 + 52 + 53 + 86 - L. 31</td>
</tr>
<tr>
<td>20.</td>
<td>Net investment in railroad property</td>
<td>(A.R. Sch. 200, Accts. 701 + 712)+(Sch 211 N-1, Line 39, col (d) minus col (e))</td>
<td>(A.R Sch. 200, L 1 + L. 12) + (A.R Sch. 211 N-1, Line 39, col. (d) minus col (e))</td>
</tr>
<tr>
<td>21w</td>
<td>Net investment in railroad property (avg. beg. and end-of-year)</td>
<td>See L. 20</td>
<td>See L. 20, above</td>
</tr>
<tr>
<td>Line</td>
<td>Item</td>
<td>Source(s)</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Railway operating revenues</td>
<td>A.R. Sch. 300, Actt. 501</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Net revenue from railway operations</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total other income</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Income available for fixed charges</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Total fixed charges</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Net operating income</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Contingent interest items (or credit)</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Income taxes on ordinary income</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Income for discontinued operations</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Ordinary income for discontinued operations</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Total extraordinary items and accounting</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Total extraordinary items and accounting</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Net income/(credit)</td>
<td>A.R. Sch. 300, Actt. 531</td>
<td></td>
</tr>
</tbody>
</table>

Schedule B (Part 1)

Income statement (dollars in thousands)

**Notes:**
1. Net income from railway operations
2. Income available for fixed charges
3. Net revenue from railway operations
4. Income for discontinued operations
5. Income taxes on ordinary income
6. Ordinary income for discontinued operations
7. Total extraordinary items and accounting
8. Total income/(credit)
9. Contingent interest items (credit)
10. Net income/(credit)

**Additional Notes:**
- Income statement totals are based on the fiscal year 1977-1978 annual report form R-1.
- For years prior to 1978, see Conversion Table for Schedule B.

**Footnote:**

### Schedule B Conversion Table

For comparable data for 1977 and prior years to 1978

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Item</th>
<th>System of Accounts Effective 1/1/78</th>
<th>System of Accounts Prior to 1/1/78</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Railway operating revenues</td>
<td>A.R. Sch. 300, Acct. 501</td>
<td>See Conversion Table, Sch. A, L. 10</td>
</tr>
<tr>
<td>2</td>
<td>Railway operating expenses</td>
<td>A.R. Sch. 300, Acct. 531</td>
<td>See Conversion Table, Sch. A, L. 9</td>
</tr>
<tr>
<td>3</td>
<td>Net revenue from railway operations</td>
<td>A.R. Sch. 300</td>
<td>L. 1 - L. 2 above</td>
</tr>
<tr>
<td>4</td>
<td>Total other income</td>
<td>A.R. Sch. 300</td>
<td>A.R. Sch. 300, L. 37 - L. 24</td>
</tr>
<tr>
<td>5</td>
<td>Total miscellaneous deductions</td>
<td>A.R. Sch. 300</td>
<td>A.R. Sch. 300, L. 47</td>
</tr>
<tr>
<td>6</td>
<td>Net other income &amp; deductions (debit)/credit</td>
<td>L. 4 - L. 5</td>
<td>L. 4 - L. 5, above</td>
</tr>
<tr>
<td>7</td>
<td>Income available for fixed charges</td>
<td>A.R. Sch. 300</td>
<td>See Conversion Table, Sch. A, L. 7</td>
</tr>
<tr>
<td>8</td>
<td>Total fixed charges</td>
<td>A.R. Sch. 300</td>
<td>A.R. Sch. 300, L. 49</td>
</tr>
<tr>
<td>9</td>
<td>Income after fixed charges</td>
<td>A.R. Sch. 300</td>
<td>L. 7 - L. 8, above</td>
</tr>
<tr>
<td>10</td>
<td>Contingent interest</td>
<td>A.R. Sch. 300</td>
<td>A.R. Sch. 300, L. 56</td>
</tr>
<tr>
<td>11</td>
<td>Unusual or infrequent items (debit)/credit</td>
<td>A.R. Sch. 300, Acct. 555</td>
<td>A.R. Sch. 300, L. 57</td>
</tr>
<tr>
<td>12</td>
<td>Income (loss) from continuing operations (before income taxes)</td>
<td>A.R Sch 300</td>
<td>L. 9 - L. 10 + L. 11</td>
</tr>
<tr>
<td>13</td>
<td>Income taxes on ordinary income</td>
<td>A.R. Sch. 300, Acct. 556</td>
<td>A.R. Sch. 350, L. 59</td>
</tr>
<tr>
<td>14</td>
<td>Provision for deferred income taxes</td>
<td>A.R. Sch. 300, Acct. 557</td>
<td>A.R. Sch. 300, L. 5</td>
</tr>
</tbody>
</table>
## SCHEDULE B CONVERSION TABLE
for comparable data for 1977 and prior years, to 1978

<table>
<thead>
<tr>
<th>Line No.</th>
<th>PROPOSED SCHEDULE B</th>
<th>System of Accounts Effective 1/1/78</th>
<th>System of Accounts Prior to 1/1/78</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.</td>
<td>Income (loss) from discontinued operations</td>
<td>A.R. Sch. 300, Accts. 560 + 562</td>
<td>A.R. Sch. 300, L. 61</td>
</tr>
<tr>
<td>17.</td>
<td>Total extraordinary items and accounting changes (debit)/credit</td>
<td>A.R. Sch. 300, Accts 570 + 590 + 591 + 592</td>
<td>A.R. Sch. 300, L. 68</td>
</tr>
<tr>
<td>18.</td>
<td>Net income</td>
<td>A.R. Sch. 300</td>
<td>A.R. Sch. 300, L. 69</td>
</tr>
<tr>
<td>19.</td>
<td>Net railway operating income</td>
<td>L. 8 of footnote 1/</td>
<td>L. 8 of footnote 1/</td>
</tr>
</tbody>
</table>

**1.** Net revenue from ry. crps.
**2.** Income taxes on ord. income
**3.** Provision for deferred income taxes
**4.** Taxes applicable to income (loss) from operations of discontinued segment
**5.** Taxes applicable to gain (loss) on disposal of discontinued segment
**6.** Income from lease of road & equip.
**7.** Rent for leased roads & equip.
**8.** Net railway operating income

Ex Parte No. 290
Appendix
**Schedule B (part I)**

Purpose: Schedule B (part I) is designed to provide the Commission with an indication of the carriers’ past, present, and forecasted income statement data which will facilitate an analysis of their financial stability and revenue need position.

Instructions:

Schedule B (part I) should report income statement data for class I carriers only. A separate Schedule B (part I) should be prepared for each of the following:

1. composite district class I carriers.
2. composite nationwide class I carriers, if appropriate.

Time frame requirements:

Columns c, d, and e—Data reported in columns c, d, and e should be based on the most recent four-quarter period ending 4 months prior to the filing month of the proposed increase. “Quarter period” is defined as a calendar year quarter (e.g., January-March, October-December, etc.). The data reported in these columns will always be based on a 12-month period ended on or near the effective date of the proposed rate increase. Revenues in column f should be based on rates and charges which are currently in effect.

The data reported in column g should also be based on the base year actual (column d) restated to reflect conditions (wage, price, productivity, etc.) prevailing on or near the effective date of the proposed rate increase. Unlike column f, however, revenues in column g should be based on the proposed rates.

The sum of money reflected in column g should be supported by evidence that it is a just and reasonable amount. This evidence should enable the Commission to find that the proposed rate increase:

(a) is cost justified and does not reflect future inflationary expectations.
(b) takes into account expected and reasonable productivity gains.
(c) is not excessive in terms of the carriers’ ability to provide adequate and safe service or to provide for necessary expansion to meet future requirements for transportation services.
(d) is not excessive in terms of the rate of return needed by the carriers to attract debt and equity capital at reasonable costs.

---

**SCHEDULE B (PART II)**

**Analysis of total rents payable (dollars in thousands)**

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Respondents percent common stock ownership in lessor</th>
<th>Nature of lessor’s business (if affiliated)</th>
<th>Percent respondents rentals to lessor’s total sales (if affiliated)</th>
</tr>
</thead>
</table>

---

Ex Parte No. 290
Appendix

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**FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977**
RULES AND REGULATIONS

Scedule B (part II)

Purpose: Schedule B (part II) is designed to identify the various enterprises from whom the railroads lease equipment and the nature of their relationship with the carriers.

Instructions: Schedule B (part II) should report rents payable data for class I carriers only. A separate Schedule B (part II) should be submitted for each individual class I carrier. Schedule B (part II) will be restricted to only those lessors in which the respondent has some affiliation. Transactions aggregating less than $30,000 need not be reported in this Schedule.

Commodity List for Schedule C

The commodity list herein is derived from the exhibits and verified statements submitted by the Special Projects Council (SPC) to the Interstate Commerce Commission, in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure. Commodity groups selected for the traffic study herein (Schedule C) are noted by asterisks.

The commodity list prepared effective with the Standard Transportation Commodity Code (STCC) classification on January 1, 1972, has been updated to reflect STCC No. 1-C, effective January 1, 1973, including Supplement No. 3. In addition, the recyclable commodities investigated in Ex Parte No. 319, Investigation of Freight Rates for the Transportation of Recyclable or Recycled Materials, served February 4, 1977, have also been included.

Ex Parte No. 290 Appendix

Additional Commodities to be Included in Attachment I to Appendix II of the Report and Order in Ex Parte 290

<table>
<thead>
<tr>
<th>SPC Commodity Group No.</th>
<th>Description</th>
<th>STCC Code</th>
<th>Conversions 1975</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Nonferrous concentrate (excl. copper concentrate)</td>
<td>10 212</td>
<td>40 26</td>
</tr>
<tr>
<td>*** 16.1</td>
<td>Copper concentrate</td>
<td>20 511 18</td>
<td></td>
</tr>
<tr>
<td>*** 31.1</td>
<td>Bakery refuse</td>
<td>24 293</td>
<td></td>
</tr>
<tr>
<td>*** 48.1</td>
<td>Shavings or sawdust</td>
<td>30 3</td>
<td></td>
</tr>
<tr>
<td>*** 89.1</td>
<td>Reclaimed rubber</td>
<td>40 26</td>
<td></td>
</tr>
<tr>
<td>*** 89.2</td>
<td>Rubber or plastic scrap or waste</td>
<td>40 26</td>
<td></td>
</tr>
<tr>
<td>*** 91.1</td>
<td>Cullet</td>
<td>32 299 24</td>
<td></td>
</tr>
<tr>
<td>*** 118.1</td>
<td>Blast furnace products</td>
<td>33 119</td>
<td></td>
</tr>
<tr>
<td>*** 119.0</td>
<td>Copper matte</td>
<td>33 312</td>
<td></td>
</tr>
<tr>
<td>*** 119.1</td>
<td>Lead matte</td>
<td>33 322</td>
<td></td>
</tr>
<tr>
<td>*** 119.2</td>
<td>Zinc dross and residue</td>
<td>33 332</td>
<td></td>
</tr>
<tr>
<td>*** 119.3</td>
<td>Aluminum residue</td>
<td>33 342</td>
<td></td>
</tr>
<tr>
<td>*** 119.4</td>
<td>Misc. nonferrous metal residue</td>
<td>33 398</td>
<td></td>
</tr>
<tr>
<td>*** 119.5</td>
<td>Ashes</td>
<td>40 1</td>
<td></td>
</tr>
<tr>
<td>*** 119.6</td>
<td>Brass, bronze, copper or alloy scrap</td>
<td>40 212</td>
<td></td>
</tr>
<tr>
<td>*** 119.7</td>
<td>Lead, zinc or alloy scrap</td>
<td>40 213</td>
<td></td>
</tr>
<tr>
<td>*** 119.8</td>
<td>Aluminum or alloy scrap</td>
<td>40 214</td>
<td></td>
</tr>
<tr>
<td>*** 119.9</td>
<td>Tin scrap</td>
<td>40 219 60</td>
<td></td>
</tr>
<tr>
<td>*** 120</td>
<td>Textile waste</td>
<td>22 941, 22 973, 22 994, and 40 22</td>
<td></td>
</tr>
<tr>
<td>*** 122.5</td>
<td>Municipal garbage</td>
<td>40 291 14</td>
<td></td>
</tr>
<tr>
<td>*** 121</td>
<td>Paper waste or scrap</td>
<td>40 214, 40 23</td>
<td></td>
</tr>
<tr>
<td>*** 123</td>
<td>Shipping containers or devices returned empty</td>
<td>42 1, 34 912</td>
<td></td>
</tr>
<tr>
<td>*** 123.1</td>
<td>Beverage containers returned empty</td>
<td>42 111 42</td>
<td></td>
</tr>
<tr>
<td>*** 123.2</td>
<td>Bags, old</td>
<td>41 114 34 and 41 115 80</td>
<td></td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL 42, NO. 191—MONDAY, OCTOBER 3, 1977
<table>
<thead>
<tr>
<th>Line No.</th>
<th>District</th>
<th>Total single line and interline single line (1)</th>
<th>Single line interline intra-district (2)</th>
<th>Total East-West (3)</th>
<th>Total South-East (4)</th>
<th>Total South-West (5)</th>
<th>Total West-East (6)</th>
<th>Total West-South (7)</th>
<th>Total West-North (8)</th>
<th>Total East-South (9)</th>
<th>Total East-North (10)</th>
<th>Total East-West (11)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Eastern district</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Southern district</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>3</td>
<td>Western district</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total all districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-1.*

Fully allocated expenses (dollars) for base period (year)—actual by commodity and by districts

<table>
<thead>
<tr>
<th>Commodity: STC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Eastern district</td>
</tr>
<tr>
<td>2. Southern district</td>
</tr>
<tr>
<td>3. Western district</td>
</tr>
<tr>
<td>4. Total all districts</td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-1.*

Revenues (dollars) for base period (year)—actual by commodity and by district

<table>
<thead>
<tr>
<th>Commodity: STC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Eastern district</td>
</tr>
<tr>
<td>2. Southern district</td>
</tr>
<tr>
<td>3. Western district</td>
</tr>
<tr>
<td>4. Total all districts</td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-1.*
<table>
<thead>
<tr>
<th>Line No.</th>
<th>Total single line and interline</th>
<th>Total District</th>
<th>East-West-West-East-West-South-East-South-West</th>
<th>Eastern district</th>
<th>Southern district</th>
<th>Western district</th>
<th>Total all districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total all districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-4*

Fully allocated expenses (dollars) for present profitable year, by corridor and by district

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Total single line and interline</th>
<th>Total District</th>
<th>East-West-West-East-West-South-East-South-West</th>
<th>Eastern district</th>
<th>Southern district</th>
<th>Western district</th>
<th>Total all districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total all districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-4*

Present revenues (dollars) for present profitable year, by corridor and by district

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Total single line and interline</th>
<th>Total District</th>
<th>East-West-West-East-West-South-East-South-West</th>
<th>Eastern district</th>
<th>Southern district</th>
<th>Western district</th>
<th>Total all districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total all districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-4*

Proposed revenues (dollars) for present profitable year, by corridor and by district
## SCHEDULE C-3

**Revenue/variable cost ratios for base period (year)—actual, by commodity and by district**

(In percent to 1 decimal)

**Commodity: STC**

<table>
<thead>
<tr>
<th>Line No.</th>
<th>District</th>
<th>Total single line and interline</th>
<th>Single intra-district</th>
<th>Interline</th>
<th>INTERDISTRICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>Eastern district</td>
<td>Total (2)</td>
<td>Total (3)</td>
<td>(5)</td>
<td>(6)</td>
</tr>
<tr>
<td>(2)</td>
<td>Southern district</td>
<td></td>
<td></td>
<td>(7)</td>
<td>(8)</td>
</tr>
<tr>
<td>(3)</td>
<td>Western district</td>
<td></td>
<td></td>
<td>(9)</td>
<td>(10)</td>
</tr>
<tr>
<td>(4)</td>
<td>Total all districts</td>
<td></td>
<td></td>
<td>(11)</td>
<td></td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-4.*

Ratios based on data in Schedule C-1.

## SCHEDULE C-4

**Revenue/variable cost ratios for present proforma year by commodity and by district—revenues at present and proposed levels**

(In percent to 1 decimal)

**Commodity: STC**

<table>
<thead>
<tr>
<th>Line No.</th>
<th>District</th>
<th>Part 1. Ratios based on present revenues</th>
<th>Part II. Ratios based on proposed revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>Eastern district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2)</td>
<td>Southern district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3)</td>
<td>Western district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4)</td>
<td>Total all districts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5)</td>
<td>Eastern district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(6)</td>
<td>Southern district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(7)</td>
<td>Western district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(8)</td>
<td>Total all districts</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*See explanation following Schedule C-4.*

Ratios based on data in Schedule C-2.
Purpose and explanation of Schedule C. The purpose of Schedules C-1 through C-4 is to obtain cost and revenue data for specified commodities, separated between single line and interline, transported by railroads in Eastern, Southern, and Western districts, by district totals and for all districts combined, as appropriate. Costs and revenues should be provided for two time periods, namely, (1) base period (year)-actual (Schedule C-1), and (2) present pro forma year, reflecting present costs and both present and proposed revenues (Schedule C-2). Schedules C-3 and C-4 require revenue/variable cost ratios, by commodity and by district. These ratios are developed from data provided in Schedules C-1 and C-2, respectively.

(a) Time periods: Base period (year)-actual and present pro forma period. The study year shall be referred to as the "Base Period (Year)-Actual." That year (except as noted below) shall be the four-quarter period ending no later than 4 months prior to the filing date of the proposed general increase.

Traffic and cost study data for the base period (year)-actual shall be updated to reflect wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the proposed increase. The time period reflecting these data, stated on an annual basis, shall be referred to as the "Present Pro forma Year."

If an increase is filed during the period from August 1, 1978 through April 30, 1979, however, the base period (year)-actual should be based on 1977 calendar year results (cost and traffic) updated to reflect the required present pro forma year.

(b) Cost levels: Variable and fully allocated expenses. Costs, for Schedule C purposes, shall be based on two levels, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). This level of costs is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, Rules to Govern Assembling and Presenting of Cost Evidence, but excludes return on investment. The F.A.E. level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes). Both levels of cost must be furnished.

(c) Revenues. Freight revenues for the base period (year)-actual and the present pro forma year, including both present and proposed revenues, shall include revenues obtained from all rates and charges and not only that associated with the line-haul traffic.

(d) Commodity STCC No. The commodities or commodity classes to be used shall be at least those set forth in Attachment I, hereof. The sample may be expanded to include other commodities if it is so desired. In addition, all other commodities or commodity classes not shown individually shall be grouped and shown in a "Total Carload Traffic" category.

(e) Interline intradistrict. This is interline traffic in which the entire through movement is handled only by carriers assigned to the same district (Eastern, Southern, or Western) as the reporting carrier.

(f) Interline Interdistrict. This is interline traffic in which a portion of the entire through movement is handled by a carrier or carriers assigned to a district other than the one to which the reporting carrier is assigned. The revenue and cost data required in this schedule, should be based on the actual divisional interchange point regardless of the territorial border point.
## SCHEDULE D*

### Selected employment statistics

<p>| District (U.S., East, South, West) |
|-------------------------------|----------------------------------|</p>
<table>
<thead>
<tr>
<th>Line</th>
<th>Item</th>
<th>Source</th>
<th>Base Period</th>
<th>Pro forms year (year-actual)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Total number of employees</td>
<td>Form B, col. 2, line 909</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Total service hours</td>
<td>Form A, col. 7, line 907 &amp; Form B, col. 8, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Straight time paid for</td>
<td>&quot;A,&quot; &quot;4,&quot; &quot;507 &amp; Form B, col. 5, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Overtime paid for</td>
<td>&quot;A,&quot; &quot;5,&quot; &quot;907 &amp; Form B, col. 6, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Vacations and other allowances</td>
<td>&quot;A,&quot; &quot;6,&quot; &quot;907 &amp; Form B, col. 7, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Total &quot;Freight&quot; employees</td>
<td>&quot;B,&quot; &quot;2,&quot; &quot;909&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Total &quot;Freight&quot; service hours</td>
<td>&quot;A,&quot; &quot;7,&quot; &quot;907 &amp; Form B, col. 8, line 908</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1ICC Wage Statistics, Form A or B, unless otherwise indicated.
2"Freight" in Schedules E, F, and G refers to total Form A and Form B, less the following lines: 12, 67, 84, 85, 86, 97, 99, 100, 101, 104, 111, 112, 115, 116, 121, 125.
3Show annualized number of service hours or employees based on prevailing employment levels at or near the filing date of the proposed increase.
4"Base period-actual" shall be that four quarter period ending no later than four months prior to the filing date of the proposed rate increase.
5"Pro forms year" shall be the "base period-actual" restated to reflect conditions prevailing on or near the effective date of the proposed rate increase.
6Purpose and explanation follows Schedule G.

## SCHEDULE E*

### Selected compensation and wage statistics

<p>| District (U.S., East, South, West) |
|-------------------------------|----------------------------------|</p>
<table>
<thead>
<tr>
<th>Line</th>
<th>Item</th>
<th>Source</th>
<th>Base Period</th>
<th>Pro forms year (year-actual)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Total compensation</td>
<td>Form A, col. 11, line 907 &amp; Form B, col. 12, line 903</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Average compensation per hr</td>
<td>Line 1 x Sched. B, line 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Straight time paid for</td>
<td>Form A, col. 6, line 907 &amp; Form B, col. 9, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Overtime compensation</td>
<td>Form A, col. 9, line 907 &amp; Form B, col. 10, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Vacations &amp; other allowances</td>
<td>Form A, col. 10, line 907 &amp; Form B, col. 11, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Total Freight compensation</td>
<td>Form A, col. 11, line 907 &amp; Form B, col. 12, line 908</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Wage increase (percent or cents per hr) paid or due during period, date from which due, and total service hours affected by labor contract.</td>
<td>Estimated from labor awards and Forms A and B.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Cost of wage increase during period</td>
<td>AR Sched. 320, line 183</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>Employee compensation chargeable to operating expense</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1ICC Wage Statistics, Forms A and B, unless otherwise indicated. Base all compensation estimates on respective employment levels and service hours in Schedule D, taking into account relative changes among employee groups affected by the various labor contracts; underlying work papers should be available for inspection by Commission if necessary.
2See Schedule D, footnote 3.
3Use additional pages if necessary.
4Line 7 wage increases x respective service hours affected in year in question. For periods less than 1 year estimate applicable service hours during period in question represent of the total for the year.
5Purpose and explanation follows Schedule G.
Purpose and explanation of schedules D-G.—Schedules D through G require data on recent, present, and projected levels of employment, wages, and fringe benefits, and productivity. This information was initially required to effectively implement the regulations promulgated by the Commission in its report and order in Ex Parte No. 280, Special Procedures for Tariff Filings under the Wage and Price Stabilization Program, on July 15, 1972. These regulations, particularly, sec. 1211.0(c), required that expected and obtainable productivity be taken into account, as well as labor cost increases.

Schedule D provides data and estimates on present and expected employment levels based on present and past employment and productivity experience, and anticipated traffic and productivity levels. Schedule E provides data on present and expected wage and salary costs, based on provisions of existing labor contracts and projected employment levels. Schedule F provides like information on health and welfare costs, payroll taxes for old age benefits and unemployment insurance, and pension plans. Schedule G summarizes direct and indirect labor costs, and provides a measure of past, present, and projected increase in labor productivity in recent years, and which appear to be strongly influenced by the level of freight traffic.

Schedule H

Purpose and Explanation of Schedule H. Essentially the purpose of this schedule is to require data on holddowns and other exceptions for specific commodity groups from the proposed general rate increases. Specifically the schedule provides (1) for data to identify the specific holddowns and other exceptions proposed in the master tariff and the revenue effect of such variances; (2) justification and demonstration of the need for the exceptions in the rates charged (whether greater or less than the proposed general increase); and (3) the cumulative impact by district on carrier revenues resultant of the holddowns exceptions or other variances.

Summary, these data which determine the overall revenue yield generated by the proposed general rate increase are considered essential in assessing railroad revenue needs.
### SCHEDULE I

Statement of changes in financial position (dollars in thousands)

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Schedule</th>
<th>Line</th>
<th>Column</th>
<th>Description</th>
<th>Calendar Yr (a)</th>
<th>Calendar Yr (b)</th>
<th>Calendar Yr (c)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>300</td>
<td>62</td>
<td>(b)</td>
<td>Net income (loss) before extraordinary items</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>2</td>
<td>324</td>
<td>17</td>
<td>(b)</td>
<td>Retirement of nondepreciable property</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>3</td>
<td>395</td>
<td>-</td>
<td>-</td>
<td>Loss (gain) on sale or disposal of tangible property</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>4</td>
<td>ROI A</td>
<td>-</td>
<td>-</td>
<td>Add depreciation and amortization expenses</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>5</td>
<td>300</td>
<td>5</td>
<td>(b)</td>
<td>Net increase (decrease) in deferred income taxes</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>6</td>
<td>300</td>
<td>35</td>
<td>(a)</td>
<td>Net increase (decrease) in parent's share of subsidiary's undistributed income for the year</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>7</td>
<td>209</td>
<td>74, 77</td>
<td>(b)-(c)</td>
<td>Net increase (decrease) in noncurrent portion of estimated liabilities</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td>Sources of working capital</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td>Total working capital from operations before extraordinary items</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td>Total working capital from extraordinary items and accounting changes</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>11</td>
<td></td>
<td></td>
<td></td>
<td>Total working capital from operations (lines 18 and 28)</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td>Total working capital from sources other than operations (line 36)</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
<tr>
<td>13</td>
<td></td>
<td></td>
<td></td>
<td>Total sources of working capital (lines 29 and 41)</td>
<td>Calendar</td>
<td>Calendar</td>
<td>Calendar</td>
</tr>
</tbody>
</table>
### RULES AND REGULATIONS

**Statement of changes in financial position (dollars in thousands)—Continued**

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Schedule</th>
<th>Line</th>
<th>Column</th>
<th>Description</th>
<th>Calendar Yr. 19 e</th>
<th>Calendar Yr. 19 f</th>
<th>Calendar Yr. 19 g</th>
</tr>
</thead>
<tbody>
<tr>
<td>43</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Account paid to acquire/retire long-term liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>44</td>
<td>305</td>
<td>10</td>
<td>(b)</td>
<td>Cash dividends</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>211</td>
<td>52</td>
<td>(e)</td>
<td>Purchase price of carrier operating property</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Purchase price of other tangible property</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>205</td>
<td>59</td>
<td>(j)</td>
<td>Purchase price of long-term investments and advances</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>48</td>
<td>204</td>
<td>41</td>
<td>(l)</td>
<td>Net increase in sinking or other special funds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>49</td>
<td>228</td>
<td>15</td>
<td>(j)</td>
<td>Purchase price of acquiring treasury stock</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Other (specify):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>51</td>
<td></td>
<td></td>
<td></td>
<td>Total application of working capital</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>52</td>
<td></td>
<td></td>
<td></td>
<td>(Net increase(decrease) in working capital (Line 42 less Line 55))</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>53</td>
<td></td>
<td></td>
<td></td>
<td>(Show computations in Schedule 205)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:** Furnish the actual amount of depreciation and amortization expense taken during the year. The following can be used as references:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Line</th>
<th>Column</th>
</tr>
</thead>
<tbody>
<tr>
<td>322</td>
<td>26</td>
<td>(b)</td>
</tr>
<tr>
<td>376</td>
<td>3</td>
<td>(b)</td>
</tr>
<tr>
<td>310</td>
<td>9</td>
<td>(b)</td>
</tr>
<tr>
<td>214</td>
<td>22</td>
<td>(b)</td>
</tr>
<tr>
<td>200</td>
<td>72</td>
<td>(b)-c</td>
</tr>
<tr>
<td>200</td>
<td>73</td>
<td>(b)-c</td>
</tr>
</tbody>
</table>

1/ Annual report sources refer to the 1977 Annual Report F-1. For years subsequent to prior to 1977, use comparable annual report sources.

**Schedule I**

Purpose: Schedule I is designed to provide the Commission with an indication of the carriers’ sources and uses of funds over the recent past.

Instructions: Schedule I should report funds flow data for class I carriers only. A separate Schedule I must be prepared for the following:

1. Each individual class I carrier.
2. Composite district class I carriers.
3. Composite nationwide class I carriers, if appropriate.

The term “funds” for the purpose of this Schedule shall include all assets or financial resources even though a transaction may not directly affect cash or working capital. For example, the purchase of property in exchange for bonds or shares of stock would be an application of funds for investment in property provided by the issue of securities. Sources and uses of funds should be individually disclosed. For example, outlays for fixed assets should not be reported net of retirements.

Time frame requirements:

| Column b | Data reported in column b should be based on the 3d calendar year preceding the effective year of the proposed rate increase. |
| Column c | Data reported in column c should be based on the 2d calendar year preceding the effective year of the proposed rate increase. |
| Column d | Data reported in column d should be based on the 1st calendar year preceding the effective year of the proposed rate increase. |

The time frame requirements outlined above apply only if the proposed rate increase is effective during the last 6 months of the calendar year. If the proposed rate increase is effective during the first 6 months of the calendar year, the data in columns b, c, and d should be based on the fourth, third, and second calendar years, respectively, preceding the effective year of the proposed rate increase.

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**FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977**
SCHEDULE J
Composite affiliate charges to respondents for services rendered

<table>
<thead>
<tr>
<th>Line No.</th>
<th>Nature of service</th>
<th>Calendar Year 19</th>
<th>Calendar Year 19</th>
<th>Base year Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Management Services</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>Legal Services</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Accounting Services</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Procurement of materials, supplies, and equipment</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>Leasing of Land and Structures</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>6</td>
<td>Leasing of equipment</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td>Miscellaneous services</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>8</td>
<td>Total charges to respondents</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>9</td>
<td>Affiliate revenues derived from services to parties other than respondents</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>10</td>
<td>Total affiliate revenues (line 8 &amp; line 9)</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>11</td>
<td>Total affiliate income from operations before income taxes</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

Schedule J

Purpose: Schedule J is designed to facilitate an assessment of the effect on the carriers' profits of transactions with affiliates.

Instructions: Schedule J should report affiliate data for Class I carriers only. A separate Schedule J must be prepared for the following:
(1) Composite district class I carriers.
(2) Composite nationwide class I carriers, if appropriate.
Affiliate transactions aggregating less than $30,000 need not be reported in this Schedule.

Time frame requirements (same as Schedule A):

Column 2—If the rate increase is filed during the first 6 months of the calendar year, the data reported in column 2 should be based on the 2d calendar year preceding the filing year. If the rate increase is filed during the last 6 months of the calendar year, the data reported in column 2 should be based on the 1st calendar year preceding the filing year.

Column 3—If the rate increase is filed during the first 6 months of the calendar year the data reported in column 3 should be based on the 2d calendar year preceding the filing year. If the rate increase is filed during the last 6 months of the calendar year the data reported in column 3 should be based on the 1st calendar year preceding the filing year.

Column 4—Data reported in column 4 should be based on the most recent four-quarter period ending 4 months prior to the filing month of the proposed increase.

Schedule K

Data concerning uneven effects of the increase (including information on commodities, localities, types of traffic, and where necessary individual carriers) and suggestions on the avoidance of possible detrimental effects.

[FR Doc. 77-28756 Filed 9-30-77; 8:45 am]

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

By Notice of Proposed Rulemaking and Order dated June 14, 1977, served July 5, 1977, and published in the FEDERAL REGISTER on June 28, 1977 (42 FR 33841), the Commission made public that it had under consideration major revisions to the 1977 annual reports prescribed for Class I and Class II motor carriers of property 49 CFR 1249 and attendant modification to the Uniform System of Accounts (49 CFR 1207). Revisions provide for (1) "respondent" and "consolidated" reporting, (2) reduction in reporting burden and other modifications to improve data disclosure, (3) separate annual report form for household goods carriers, and (4) revisions to the Uniform System of Accounts prescribed for Class I and Class II common and contract motor carriers of property. Revisions are necessary to obtain consolidated data, reduce the reporting burden on carriers, improve data disclosure, provide a single combined annual report for household goods carriers and revise the system of accounts to accommodate reporting. Revised reporting will be a significant improvement for the motor carrier industry. It includes provisions for substantial reduction in reporting requirements as well as a provision for consolidated reporting that is very desirable from a ratemaking viewpoint and beneficial to the carriers. The general public will not be affected.
RULES AND REGULATIONS

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accounts. Discussions and conclusions reached on specific issues are set forth in the Report and Order of the Commission in Docket No. 36556.

Upon investigation and consideration of views, arguments, and representations of the parties the Commission finds that Parts 1207 and 1249 of Chapter X of Title 49 of the Code of Federal Regulations should be amended as detailed in the Notice of Proposed Rulemaking and Order except for the revisions set forth in the Report of the Commission; and that such rules are reasonable and necessary to the effective enforcement of the provision of Part II of the Interstate Commerce Act, as amended; that such rules are otherwise lawful and, to the extent so found in this report, consistent with the public interest and the national transportation policy; and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered that: (1) Effective January 1, 1977, the regulations prescribed in Parts 1207 and 1249, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as shown below upon advice from the Comptroller General of the United States that they comply with the Federal Reports Act.

Parts 1207 and 1249 of Chapter X, Title 49, Code of Federal Regulations, are amended as set forth below.

Classes I and II carriers) and the last sentence.

4. Instruction 13 is amended to read as follows:

13. Current assets.
(a) In the group of accounts designated as current assets, there shall not be *

5. Instruction 16 is amended to read as follows:


(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled the par value shall be charged to account 2611-Capital Stock—Preferred or 2612—Capital Stock—Common if cancelled. Any Excess *

6. Instruction 19 is amended to read as follows:

19. Carrier operating property.
(a) (1) ** Operating accounts (accounts 1211 through 1252) are classified as carrier operating property.

(f) (1) ** Operating accounts (accounts 1211 through 1252) to ** The related accumulated depreciation (account 2611-Capital Stock—Preferred or 2612—Capital Stock—Common if cancelled. Any Excess *

20. Acquisition of a distinct operating unit.

(a) Purchase (1) ** the amounts includable in accounts 1211 through 1251 for **

(c) ** Included in accounts 2632, 2641, and 2652 (class I and II) and accounts 1211 through 1341 (classes I and II), 2632, 2641, and 2652 (class I) **

8. Instruction 21, paragraph (a), is amended to read as follows:


(a) *

(b) ** shall be charged to Account 1248-Unfinished Construction with contra credit to the clearing Account. **

(c) ** or transferred to the deferred credits accounts (2412), as applicable. ** (or less the amount in account 2412). If the property **

9. Instruction 22 is amended to read as follows:

22. Insurance.

(g) ** charged to Account 1142—Prepaid Insurance and ** refund shall be retained in Account 1142 and the balance ** estimated dividend shall be charged to account 1142, and the **

Note—** and the remainder of the premium shall be charged to Account 1142 and prorated **

10. Instruction 23 is amended to read as follows:

23. Depreciation and amortization.

(b) ** depreciable property included in accounts 1211 through 1251, accumulations ** amortization (accounts 1214 through 1252).

(1) Depreciation charges on property included in accounts:

1213 Structures.
1221 Revenue Equipment.
1223 Service Car and Equipment.

(2) Depreciation charges on property included in accounts:

1233 Shop and Garage Equipment.
1235 Furniture and Office Equipment.
1237 Miscellaneous Equipment.

(c) Amortization and depreciation charges on property included in Account 1241—Improvements to Leasable Property (see instruction 21) shall be **

11. Instruction 24 is amended by deleting: “Account 1148—Prepayments (class I)” and the parenthetical phrase “(class I)”.

12. The title and text of instruction 32 is deleted and marked “Reserved.”

CLASS I AND CLASS II MOTOR CARRIERS CHART OF ACCOUNTS—BALANCE SHEET

The Class I and Class II Motor Carrier Chart of Accounts—Balance Sheet is amended in the Class II column to read as follows:

Current Assets

130 Temporary Cash Investments.
131 Notes Receivable.
1111 Notes Receivable; Officers, Stockholders, and Employees.
1112 Notes Receivable; Others.
1113 Notes Receivable from Affiliated Companies.
1114 Loans and Notes Receivable from Affiliated Companies.
1124 Bonds Receivable from Affiliated Companies.
1125 Accounts Receivable from Affiliated Companies.

Prepayments:

1141 Prepaid Taxes and Licenses.
1142 Prepaid Insurance.
1143 Prepaid Interest.
1144 Prepaid Rent.
1145 Prepaid Stationery and Printing Matter.
1146 Prepaid Supplies and Materials.
1147 Miscellaneous Prepayments.

1148 Prepaid Supplies and Materials.

Tangible Property

1211 Land and Structures.
1212 Land.
1213 Structures.
1244 Accumulated Depreciation—Shop and Garage Equipment.
1123 Shop and Garage Equipment.
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Sec. 1205 Furniture and Office Equipment.
1206 Accumulated Depreciation—Furniture and Office Equipment.
1207 Miscellaneous Equipment.
1208 Accumulated Depreciation—Miscellaneous Equipment.
1209 Improvements to Leasehold Property.
1210 Accumulated Amortization—Improvements to Leasehold Property.
1211 Undistributed Property.
1212 Accumulated Depreciation—Undistributed Property.
1213 Unfinished Construction.
1214 Carrier Operating Property Leased to Others.
1215 Accumulated Depreciation—Carrier Operating Property Leased to Others.
1216 Investment Securities and Advances:
1217 Notes Payable and Matured Obligations.
1218 Loans and Notes Payable to Affiliated Companies.
1219 Interest and Dividends payable to Affiliated Companies.
1220 Accounts Payable to Affiliated Companies.
1221 Account Payable:
1222 Other Current and Accrued Liabilities.
1223 Current Equipment Obligations and Other Debt.
1224 Stockholders' Equity
1225 Capital Stock:
1226 Capital Stock—Preferred.
1227 Capital Stock—Common.
1228 Subscribed Capital Stock.

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT EXPLANATIONS

1. Note B to the text of Account 1011—Cash (class D) is amended to read as follows:

1011—Cash (class D)

b. Note B—** Deposits which are not available for withdrawal within 1 year shall be included in Account 1512—Deferred Debts.

2. Note A to the text of Account 1012—Working Funds (class D) is amended to read as follows:

1012—Working Funds (class D)

b. Note A—** shall be charged to a subdivision of Account 1512—Deferred Debts.

3. Note B to the text of Account 1023—Miscellaneous Special Deposits (class D) is amended to read as follows:

1023—Miscellaneous Special Deposits (class D)

b. Note B—** shall be included in Account 1512—Deferred Debts.

4. The title and text of Account 1110—Notes Receivable (class D) are deleted.
5. The title and text of Account 1111—Notes Receivable—Officers, Stockholders,

and Employees (class D) are amended to read as follows:

1111—Notes Receivable—Officers, Stockholders, and Employees (classes I and II).

b. Note A—Notes receivable from affiliated companies shall be included in Account 1110—Notes Payable and Matured Obligations from Affiliated Companies (classes I and II). The parenthetical phrase “(class D)” is deleted and the parenthetical phrase “(class D)” is included in Account I and II.

6. The title of Account 1112 is amended to read “1112—Notes Receivable—Other (classes I and II).”

7. The title and text of Account 1120—Receivables from Affiliated Companies (class D) are deleted. The parenthetical phrase “(class D)” in the titles of subaccounts 1121, 1123, and 1125 is amended to read “(classes I and II).”

8. The title of Account 1135—Accounts Receivable; Other (classes I and II) is amended to read as follows:

1135—Accounts Receivable; Other (classes I and II).

This account shall include amounts due from others (except items provided for in accounts 1121, 1123, 1131, 1133, and 1135) that are **

9. The title and text of Account 1140—Prepayments (class D) is deleted. The parenthetical phrase “(class D)” in the titles of accounts 1141 and 1147, inclusive, is amended to read “(classes I and II).”

10. Note D to the text of Account 1141—Material and Supplies (classes I and II) is amended to read as follows:

Account 1151 Material and Supplies (classes I and II).

b. Note D—Stationery and printed matter should be charged to Account 1145.

11. The text of Account 1161—Subscribers to Capital Stock (class D) is amended to read as follows:

Account 1161 Subscribers to Capital Stock (class D).

b. Concurrently, there shall be credited to Account 2613—Subscribed Capital Stock, the par **

12. The title and text of Account 1162—Interest and Dividends Receivable (class D) is amended to read as follows:

1162 Interest and Dividends Receivable (class D).

b. Note D—** shall be included in Account 1512—Deferred Debts.

13. The title and text of Account 1201—Land and Structures (class D) are deleted and the parenthetical phrase “(class D)” in the titles of subaccounts 1211 and 1213 is amended to read “(classes I and II).” The text of Account 1213, Note D, is amended to read as follows:

1213—Structures (classes I and II).

Note D—** carried in Account 1246—Unfinished Construction, until ready for service.

14. The text of Account 1214—Accumulated Depreciation—Structures (classes I and II) is amended to read as follows:

1214—Accumulated Depreciation—Structures (classes I and II).

a. To the preceding asset account, or account 1251—Carrier Operating Property Leased to Others.

15. The text of Account 1230—Other Carrier Property (class D) is amended to read as follows:

1230—Other Carrier Property (class D).

16. The parenthetical phrase “(class D)” in the titles of Accounts 1233 through 1252 is amended to read “(classes I and II).”

17. Notes A and B to the text of Account 1246—Unfinished Construction (class D) is amended to read as follows:

1246—Unfinished Construction (class I).

Note A—** and Account 1512—Deferred Debts.

Note B—** shall be carried in Account 1512—Deferred Debts.

18. The text of Account 1410—Investments and Advances—Affiliated Companies (class D) is amended to read as follows:

1410—Investments and Advances—Affiliated Companies (class D).

This account shall include the book value (see definition B) of the carrier’s investments in securities issued or assumed by affiliated companies and the amount of advances **

Note A—** shall be included in Accounts 1121, 1123, or 1133, as appropriate.

19. The parenthetical phrase in the title of Account 1417—Notes; Affiliated Companies (class D) is amended to read “(classes I and II).”

20. The text of Account 1420—Adjustments—Investments and Advances—Affiliated Companies (classes I and II) is amended to read as follows:

1420—Adjustments and Investments and Advances—Affiliated Companies (classes I and II).

b. Secured loans included in Accounts 1140, 1141, 1413, 1415, 1417, 1419 or 1421, as appropriate (see Instruction 18(b)).

21. Note A to the text of Account 1121—Notes Payable (class D) is amended to read as follows:

2011—Notes Payable (class I).

b. Note A—** included in Account 2631—Loans and Notes Payable to Affiliated Companies (see also Account **).

22. The title and text of Account 2020—Payables to Affiliated Companies (class D) are deleted and the parenthetical phrase “(class D)” in the titles of subaccounts 2021, 2022 and 2023 is amended to read “(classes I and II).”
23. Note A in the text of Account 2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II) is amended to read as follows:

2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II).

24. The text of Note A to the following accounts is deleted and marked “Reserved.”

2311 Notes Payable (affiliated companies) (class I).

(b) ** included in Account 2021—Loans and Notes Payable to Affiliated Companies.

2312 Open Accounts, Not Subject to Current Settlement (affiliated companies) (class I).

(b) ** included in Account 2023—Accounts Payable to Affiliated Companies.

2313 Interest Accrued, Not Subject to Current Settlement (affiliated companies) (class I).

(b) ** included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

2314 Other Long-Term Obligations (classes I and II).

(a) ** included in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

2332 Bonds and Debentures (classes I and II).

2333 Capitalized Lease Obligations (classes I and II).

Note A. ** included in Account 2161—Current Equipment Obligations and Other Debt.

2334 Other Long-Term Obligations (classes I and II).

(a) ** included in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

35. The title and text of Accounts 2410—Deferred Credits (class ID) and 2411—Unamortized Premium on debt are deleted.

36. The title and text of Account 2610—Capital Stock (class ID) is deleted and the parenthetical phrase “(class D)” in the titles of Accounts 2611, 2612, and 2613 is amended to read “(classes I and ID).”

REVENUE ACCOUNT EXPLANATIONS

The text of Account 3100—Freight Revenue—Intercity Common Carrier (classes I and ID) is amended to read as follows:

3100 Freight Revenue—Intercity Common Carrier (classes I and ID).

Note C. ** included in Account 2022—Accounts Payable to Affiliated Companies or Account 2023.

OPERATING EXPENSE ACCOUNT EXPLANATIONS

The text of Account 27, 28A, and 28C carriers is amended as follows:

1. Account 4550—Tires and Tubes is amended by deleting the words “Account 1140—Prepayments (class ID)” or “(class D)” in the first paragraph.

2. Account 4710—Operating Taxes and Licenses is amended by deleting Note A.

3. Account 5310—Depreciation Expense—Buildings and Structures is amended by deleting the words “Account 1210—Land and Structures (class ID)” or “(class D)” from the first paragraph.

4. Account 5340—Depreciation Expense—Shop and Garage Equipment is amended by deleting the words “Account 1230—Other Carrier Property (class ID) or” and “(class D).”

5. Account 5350—Depreciation Expense—Furniture and Office Equipment is amended by deleting the words “Account 1230—Other Carrier Property (class ID) or” and “(class D)” from the first paragraph.

6. Account 5360—Depreciation Expense—Miscellaneous Equipment is amended by deleting the words “Account 1230—Other Carrier Property (class ID) or” and “(class D)” from the first paragraph.

7. Account 5370—Amortization Expense—Improvements to Leasehold Property is amended by deleting the words “Account 1230—Other Carrier Property (class ID) or” and “(class D)” from the first paragraph.

8. Account 5380—Depreciation Expense—Undistributed Property is amended by deleting the words “Account 1230—Other Carrier Property (class ID) or” and “(class D)” from the first paragraph.

9. Account 5710—Gains on Disposition of Operating Assets is amended by deleting the words “1231 through 1232 (class ID) and accounts” and “(class D)” from the first paragraph.

10. Account 5930—Professional Services—Debit is amended to read as follows:

5930 Professional Services—Debit.

Note C. ** Law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium in Debt or Account 2633.

Note D. ** shall be charged to Account 1510 Deferred Debts and amortized by charges to this account.

CLASS I AND CLASS II CARRIERS OF HOUSEHOLD GOODS (INSTRUCTION 283 CARRIERS)

REVENUE ACCOUNT EXPLANATIONS

1. Account 3100—Moving Revenue—Intercity Common Carriers, Own Rights (classes I and ID) is amended by deleting the words “Account 2020—Payables to Affiliated Companies or (class ID) and” and “(class D)” from Note A.

2. Account 3500—Containers, Packing, and Unpacking Services (classes I and ID) is amended by deleting the words “Account 2020—Payables to Affiliated Com-
RULES AND REGULATIONS

§ 1249.2 Annual reports of Class I and Class II carriers of household goods

Commencing with reports for the accounting year 1977, as described in part 1207 Instruction 3 of this chapter, and thereafter, until further order all Class I and Class II motor carriers of household goods and dual authority carriers as described in §1249.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M or Form M-H. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.3 Annual report of motor carrier holding companies.

(a) Each person which is not a motor carrier, but which shall be considered a motor carrier subject to provisions of section 220 of the Interstate Commerce Act by reason of effective control over one or more motor carriers through ownership of securities issued or assumed by such controlled motor carrier or carriers, shall file a report of its financial transactions in accordance with Motor Carrier Annual Report Form M as prescribed in §1249.1. Such reports hereby required to be filed shall be complete as to all details, schedules, declarations, replies, attachments, and other requirements of Motor Carrier Annual Report Form M, other than those which relate solely to the direct ownership and operation of highway equipment, and shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

Persons shall also file similar reports annually, prepared in accordance with requirements for compiling Motor Carrier Annual Report Form M, as those requirements are now in effect or may in the future be modified, for each succeeding calendar year, or accounting year of thirteen 4-week periods, such annual reports to be filed in duplicate with the Commission on or before March 31 of the year following the year to which they relate.

§ 1249.1 Annual reports of Class I and Class II carriers of property.

(a) Commencing with reports for the accounting year 1977, as described in part 1207 Instruction 3 of this chapter, and thereafter, until further order, all Class I and Class II motor carriers of property, as described in §1249.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.1 Annual reports of Class I and Class II carriers of property.

(a) Commencing with reports for the accounting year 1977, as described in part 1207 Instruction 3 of this chapter, and thereafter, until further order, all Class I and Class II motor carriers of property, as described in §1249.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.
TITL 50—Wildlife and Fisheries
CHAPTER 1—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR
SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARter, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Emergency Amendment Regarding the Use of Steel Shot for Waterfowl Hunting in Minnesota in Which Non-toxic Shot Shells Were Available at the Time


Accordingly, the Service amends 50 CFR, Chapter 1, Subchapter B, Subpart K by adding the following to that portion of § 20.108 which describes the non-toxic shot zones for Minnesota.

3. In the areas described above in the State of Minnesota use of non-toxic steel shot for waterfowl hunting will not be required prior to October 15, 1977.

Note.—The Fish and Wildlife Service has determined that this ruling does not contain a major regulatory action requiring preparation of an Economic Impact Statement under Executive Order 11,040 and OMB Circular A-167.

Dated: September 28, 1977

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

[FR Doc. 77-20681 Filed 9-30-77; 8:45 am]

Title 1—General Provisions

CHAPTER 1—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist prepared by the Office of the Federal Register, is published in the Issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily Federal Register as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.


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FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
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.

[3410-05]  DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1487]

CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM (GSM-101)

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: Certain segments of the U.S. agricultural commodity export trade, particularly exporters of cotton, have experienced increasing difficulty in obtaining adequate financing for their sales to foreign buyers on private credit terms. Private banking institutions currently financing export credit sales of agricultural commodities have indicated they would be disposed towards making additional financing available if they could be protected against certain type of non-commercial risk situations which prevent remittances pursuant to a foreign bank letter of credit. Among these risks are acts of government which prevent conversion of local currency to U.S. dollars. To provide this kind of protection, Commodity Credit Corporation (CCC) is proposing a non-commercial Risk Assurance Program (GSM-101) under which CCC would enter into assurance agreements with U.S. exporters who sell U.S. agricultural commodities on deferred payment terms. Under the assurance agreements, CCC would pay the exporter the assured amount of any default under a foreign bank letter of credit arising from certain specified non-commercial risks.

DATE: Comments must be received by November 2, 1977.


The public is invited to submit written comments regarding the proposed rule to the Office of the General Sales Manager, Commercial Export Programs, U.S. Department of Agriculture, Washington, D.C. 20250, no later than November 2, 1977, to be sure of consideration. Each person submitting comments regarding the proposed rule shall include his name and address and give reasons for any suggested change in the proposed rule. Copies of all written communications received will be available for examination by interested persons in room 4079, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250, during regular business hours. Accordingly, it is proposed to amend Chapter XIV of Title 7 of the CFR by adding a new Part 1487—Non-Commercial Risk Assurance Program (GSM-101) to read as follows:

PART 1487—CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM (GSM-101)

GENERAL

§1487.1 General statement.

§1487.2 Definition of terms.

ASSURANCE AGAINST NON-COMMERCIAL RISK DEFRAVES

§1487.3 Application for assurance agreement.

§1487.4 Assurance agreement.

ASSURANCE RATES AND FEES

§1487.5 Assurance rates.

§1487.6 Assurance fees.

DOCUMENTS REQUIRED AFTER EXPORT

§1487.7 Evidence of export.

LOSES CAUSED BY NON-COMMERCIAL RISK DEFRAVES

§1487.8 Notice of defaults.

§1487.9 Payment of losses.

§1487.10 Recovery of losses.

MISCELLANEOUS PROVISIONS

§1487.11 Assignment.

§1487.12 Covenant against contingent fees.

§1487.13 Shipment of commodities on vessels calling at north Vietnamese ports.

§1487.14 Officials not to benefit.

§1487.16 Communications.

AUTHORITY: Sec. 5(f), 23 Stat. 1072 (7 U.S.C. 174c(f)).

§ 1487.1 General statement.

(a) This part contains the regulations governing the Commodity Credit Corporation Non-Commercial Risk Assurance Program, also referred to as “GSM-101." Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold on a deferred payment basis. CCC, therefore, the guarantee is in the form of an irrevocable bank letter of credit issued in favor of the exporter who draws drafts for the assured payment as they fall due on the bank issuing such letter of credit. GSM-101 is designed to protect the exporter from losses should a draft be dishonored as the result of a non-commercial risk occurrence. By transferring the non-commercial risk of loss of deferred payments from exporters and their financing institutions to CCC, GSM-101 is intended to enable (1) facilitation of exportation, (2) forestall or limit declines in exports, (3) permit exporters to meet competition from other countries, and (4) increase commercial exports of U.S. agricultural commodities.

(b) GSM-101 will be administered by the Office of General Sales Manager, U.S. Department of Agriculture.

(c) The provisions of Pub. L. 83-564 (Cargo Preference Act) are not applicable to shipment of commodities assured as to non-commercial risk under GSM-101.

(d) GSM-101 will be supplemented by USDA announcements.

§ 1487.2 Definition of terms.

(a) “Assistant Sales Manager” means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager.

(b) “Assured Value” means the maximum amount CCC agrees to pay the exporter under the assurance agreement. The assured value shall not exceed the unpaid balance of the port value of the commodity prior to shipment plus interest of not more than six percent per annum on such unpaid balance.

(c) “Assurance Agreement” means the written agreement under which CCC undertakes to reimburse the exporter for losses resulting from defaults in remittances due to non-commercial risk under a foreign bank letter of credit securing the exporter’s export credit sale.

(d) “CCC” means the Commodity Credit Corporation, U.S. Department of Agriculture.

(e) “Date of Export” means the on-board date of an ocean bill of lading or on-board ocean carrier date of an inter-modal bill of lading.

(f) “Date of Sale” means the earliest date the exporter has knowledge of a contractual obligation exists with the importer under which a firm dollar and cent price has been established or a mechanism to establish the price has been agreed upon.

(g) “Export Credit Sales” means an agreement by an exporter to sell eligible agricultural commodities for U.S. dollars to an importer. The agreement shall provide for export of the commodities to eligible countries within 12 months from the contract date and for payment by the importer on a deferred payment basis not exceeding 36 months from the date(s) of export.

(h) “Exporter” means an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity that is financially responsible, (2) engaged in the business of buying or selling commodities for export, and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
someone on whom service of judicial process may be had within the United States, and (3) suspended or barred from contracting with or participating in any program administered by CCC on the date of issuance of the assurance agreement.

The Foreign Bank Letter of Credit means an irrevocable commercial letter of credit issued in favor of the exporter by a banking institution in the destination country pursuant to an export credit sale, which provides for deferred payments in U.S. dollars.

(i) "Importer" means a foreign buyer who enters into an export credit sale contract on a deferred payment basis with a U.S. exporter.

(k) "Non-Commercial Risk" means the risk of loss as a result of failure by the foreign bank, through no fault of its own, to make remittances pursuant to the bank letter of credit issued by it because of (1) war, hostilities, civil war, rebellion, insurrection or civil commotion; or (3) expropriation, confiscation, or like action by government; or (3) the imposition by governmental authority of any order, decree, or regulation of general applicability having the force of law; or (4) the failure of the central exchange authority to transfer local currency into dollars.

(d) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(m) "Port value" means the total value of the export credit sale, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. ports. Such value shall include, the value of the upward loading tolerances, if any, as provided for by the export credit sale contract.

(n) "Sales Announcement" means an announcement issued by the U.S. Department of Agriculture supplementing these regulations. An announcement may include identification of eligible agricultural commodities and countries, dollar limitation of CCC exposure in a country and other information.

(o) "Vice President, CCC" means the Vice President who is the General Sales Manager, OGSM.

ASSURANCE AGAINST NON-COMMERCIAL RISK DEFAULTS

§ 1487.3 Application for assurance agreement.

(a) An exporter shall submit a written application for an assurance agreement to the office specified in § 1487.16.

(b) The application shall include the following:

(1) Name of the destination country.
(2) Name and address of importer.
(3) Date of sale.
(4) Exporter's sale number.
(5) Delivery period.
(6) Kind and description of the commodity.
(7) Quantity.
(8) Port value.
(9) Assured value.

(c) Estimated payment schedule(s) for each shipment to be made under the assurance agreement showing the estimated payment due dates and estimated amounts due annually for both principal and interest.

(b) An application for an assurance agreement may be rejected, approved with modifications, or approved as submitted by the Assistant Sales Manager.

(c) In the event the application is approved, the Assistant Sales Manager shall cause an assurance agreement to be issued in favor of the U.S. exporter. § 1487.4 Assurance agreement.

(a) The assurance agreement shall provide that CCC shall pay the U.S. exporter in U.S. dollars for losses resulting from the failure of the foreign bank, which issues the bank letter of credit, to honor drafts drawn upon it or otherwise remit amounts properly due when such defaults are caused by the occurrence of non-commercial risks arising after export.

(b) The assurance coverage shall become effective on the date(s) of export and continue in force for the period covered by the schedule for such export(s). Exports made prior to receipt by CCC of a telephonic or written application for an assurance agreement are ineligible for assurance coverage.

(c) The assurance agreement may contain such terms, conditions, and limitations not inconsistent with GSA-101 as are determined by the Assistant Sales Manager.

(d) The assurance agreement may be amended provided such amendment is in conformity with GSA-101 at the time of amendment and is approved by the Assistant Sales Manager. Amendments may include a change in the credit period and an extension of time to export. Any amendments of the assurance agreement may be subject to an increase in the assurance fee. Any amendment shall indicate its effective date and shall apply only to exports made on or after that date.

ASSURANCE RATES AND FEES

§ 1487.5 Assurance rates.

The assurance rates will be based upon the length of the payment terms provided for by the export credit contract, the degree of risk that CCC assumes, and any other factors which CCC believes should be considered. Assurance rates charged by CCC under GSA-101 will be available upon request from the office specified in § 1487.16.

§ 1487.6 Assurance fees.

(a) The assurance fee will be computed on the basis of the portion of the port value, plus interest not to exceed 6 percent, which is assured under the assurance agreement.

(b) The exporter shall remit, with its written application, the full amount of the fee based on an applicable rate. If the application is submitted by telephone, telex, or TWX, final approval of the application will not be given until the fee has been received by CCC. Approval of the application will be final and refunds of the assurance fee will not be made after approval unless the Assistant Sales Manager determines that such a refund would be in the interest of GSA-101.

(c) If the application for an assurance agreement is not approved or is approved only for a part of the coverage requested, a full or pro rata refund of the remittance will be made. The assurance fee shall be made payable to CCC and mailed to the office specified in § 1487.16.

DOCUMENTS REQUIRED AFTER EXPORT

§ 1487.7 Evidence of export.

(a) The exporter shall provide a written report to the office specified in § 1487.16 within 20 days following each export covered under the assurance agreement. This report shall include the following:

(1) Assurance agreement number.
(2) Date of export.
(3) Exporter's sale number.
(4) Port value exported.
(5) Weight and quantity description of the commodity exported.
(6) Statement that the agricultural commodities of the grade, quality and quantity called for in his sales contract with the foreign importer have been exported.

(7) A statement that he has in his files documents evidencing the obligation of the foreign importer and that he will retain such documents in his files until three years after maturity of the related assurance agreement.

(b) A statement that a letter of credit has been opened in favor of the exporter to cover the port value of the commodity exported.

(c) A payment schedule showing the payment due dates and amounts due separately for both principal and interest for which credit has been extended to the importer.

(d) If the report required by paragraph (a) of this section is not received by CCC within 20 days after the date of the export, the assurance agreement shall become null and void with respect to defaults in payments applicable to such export. This provision may be waived by the Assistant Sales Manager for good cause shown.

LOSSES CAUSED BY NON-COMMERCIAL RISK DEFAULTS

§ 1487.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to honor a draft in full conformity with the terms of the letter of credit and such default appears to be attributable to the occurrence of a non-commercial risk, the exporter or the assignee shall promptly furnish a written notice of default to the Treasurer, CCC. The notice shall include the assurance agreement number, the amount due, the date of refusal to pay, and reason for the default.

(b) Within 30 days after the notice of default, the exporter or the assignee shall furnish the following:
PROPOSED RULES

§ 1487.9 Payment of loss.

(a) Upon receipt of the information required under §1487.8, and such evidence as CCC may deem necessary for the purpose of establishing that the loss was occasioned by the occurrence of a non-commercial risk default, CCC shall promptly determine whether or not a loss has occurred for which CCC is liable under the applicable assurance agreement and these regulations. CCC will promptly notify the exporter of its determination.

(b) CCC's maximum liability will be limited to the value as shown in the assurance agreement. The liability of CCC shall be reduced to the extent that the exporter has obtained other valid and collectible coverage for such loss. If the assured value covers only a percentage of the port value of an export credit sale, the liability of CCC shall be limited to such percentage of the loss.

(c) CCC shall only honor claims for losses on amounts not paid as scheduled. CCC shall not honor claims for amounts due under an accelerated payment clause in the export credit sales contract or the letter of credit unless it is determined to be in the interest of GSM-101 by the Assistant Sales Manager.

(d) If CCC determines that it is liable to the exporter and/or his assignee, the exporter and/or his assignee shall execute and submit to CCC an instrument, in form and substance satisfactory to CCC, subrogating to CCC, their respective rights for the amount of payment in default under the bank letter of credit and the applicable export credit sale. After receipt of an instrument of subrogation, CCC will remit the amount of the loss plus interest, at the Federal Reserve Bank of New York discount rate in effect on the date of default, beginning with the 31st day after notice of default was received by CCC and continuing to the date payment is made by CCC.

(e) Upon payment of a claim to the exporter or his assignee, the exporter or his assignee shall cooperate with CCC to effect recoveries from the foreign bank and/or the importer.

§ 1487.10 Recovery of losses.

(a) Upon payment of loss to the exporter of his assignee, CCC will notify the importer and/or the foreign bank of its rights under the subrogation agreement to recover all monies in default under the foreign bank letter of credit.

(b) In the event monies for the defaulted payment are received by the exporter or the assignee from the importer, foreign bank, or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC.

(c) Recoveries made by CCC from the importer or foreign bank and recoveries received by CCC from the exporter or assignee or any other source shall be allocated by CCC to the exporter or assignee and CCC on a pro rata basis their respective interests may appear.

(d) Notwithstanding any other terms of the assurance agreement, the exporter shall be liable to CCC for any amounts paid by CCC under the assurance agreement, and shall be deemed by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by him for the purpose of obtaining the assurance agreement.

MISCELLANEOUS PROVISIONS

§ 1487.11 Assignment.

(a) The exporter may make an assignment of proceeds payable by CCC under the assurance agreement or to any other financing institution involving transactions related to the export credit sale covered by the assurance agreement until three years after expiration of the coverage of the related assurance agreement.

§ 1487.14 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the assurance agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the assurance agreement if made with a corporation for its general benefit.

§ 1487.15 Exporter's records and accounts.

Authorized officials of USDA shall have access to and the right to examine any pertinent books, documents, papers and records of the exporter and/or the financing institution involved in the transactions related to the export credit sale covered by the assurance agreement until three years after expiration of the coverage of the related assurance agreement.

§ 1487.16 Communications.

Unless otherwise provided, written requests, notifications, or communications concerning the assurance agreement shall be addressed to the Assistant Sales Manager, Office of the General Sales Manager.


KELLY HARRISON, Assistant Sales Manager, Office of the General Sales Manager.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[10 CFR Part 791]

ELECTRIC HYBRID VEHICLE RESEARCH DEVELOPMENT AND DEMONSTRATION PROJECT

Performance Standards

AGENCY: U.S. Energy Research and Development Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administrator of the U.S. Energy Research and Development Administration is directed in Pub. L. 94-413 (Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976) to promulgate rules establishing performance standards representing the minimum level of performance required of electric or hybrid vo-
vehicles to be purchased or leased under provisions of Pub. L. 94-413. This notice is intended to encourage timely public comment for consideration in preparing these performance standards.

DATES: Comments must be received on or before November 18, 1977.

ADDRESS: Send comments to Electric and Hybrid Vehicle Systems, Division of Transportation Energy Conservation, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:
Paul J. Brown, 202-376-4681.

SUPPLEMENTARY INFORMATION: The Administrator of the U.S. Energy Research and Development Administration prior to the required promulgation of minimum performance standards by December 17, 1977. It is requested that all comments and recommendations be mailed to the Office of Electric and Hybrid Vehicle Systems by November 18, 1977, to provide sufficient time for such consideration.

Written public comments and recommendations with respect to the proposed standards are invited from interested individuals and organizations, and will be considered by the Energy Research and Development Administration prior to the required promulgation of minimum performance standards by December 17, 1977. It is requested that all comments and recommendations be mailed to the Office of Electric and Hybrid Vehicle Systems by November 18, 1977, to provide sufficient time for such consideration.

Dated at Washington, D.C., this 20th day of September 1977.

MANUEE SANTE
Director, Division of Buildings and Community Systems.

[FR Doc. 77-29133 Filed 9-30-77; 8:45 am] [4910-13] DEPARTMENT OF TRANSPORTATION Federal Aviation Administration [14 CFR Part 39] [Docket No. 77-2WE-01-AD] AIRWORTHINESS DIRECTIVES McDonnell Douglas DC-10 Series Airplanes AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes an airworthiness directive (AD) that would require both of the following to be accomplished on DC-10 series airplanes: (1) the modification of the stall warning installation and (2) the addition of a preflight stall warning circuit check to the FAA Approved Airplane Flight Manual. The proposed AD is needed to prevent aborted takeoffs at speeds above the designated speed for an aborted takeoff, due to a false stall warning circuit to the airplane running off the runway.

DATES: Comments must be received on or before November 3, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service bulletin may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisen, CF-750, 55-60. Also, a copy of this service bulletin may be reviewed at, or a copy obtained from: Rules Docket, in Room 916, FAA 800 Independence Ave., SW., Washington, D.C. 20591, or Rules Docket, in Room 6W714, FAA Western Regional Office, 1320 Aviation Blvd., Hawthorne, Calif. 90250.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the mailing of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule.

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

A report summarizing each FAA-public contact, concerned with the substance of the proposed AD will be filed in the Rules Docket.

During the past two years, 58 reported false stall warning annunciations have occurred during takeoff roll at rotation on DC-10 series airplanes. Although the false stall warnings have occurred above the normal abort speed, this condition has resulted in five aborted takeoffs. To alleviate aborted takeoffs induced by false stall warnings, the McDonnell Douglas Corporation has prepared a modification to add a five second delay to the stall warning circuitry.

The proposed delay provides a greater time interval between the designated abort speed and any possible false stall warning. The additional delay normally will result in the airplane becoming airborne before a false stall warning can occur. This should decrease the possibility of an aborted takeoff.

The five second time delay is effected immediately after takeoff only. During the time from nose gear lift off plus five seconds, throughout the flight regime to touchdown, an approach to stall will have a normal undelayed stall warning annunciation.

Since false stall warnings are likely to occur in other airplanes of the same type design, the proposed AD would require accomplishment of the following on DC-10 airplanes: (1) the installation of necessary hardware which will add a normal five second time delay to the stall warning initiation circuitry; and (2) the incorporation in the FAA Approved Airplane Flight Manual of a preflight test procedure that verifies operation of the five second delay time.

NOTE.—In separate but related action, the FAA is proposing the mandatory modification of the angle of attack sensor used on DC-10
and other airplanes, to minimize the probability of false stall warnings.

DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Dewitt T. Lawson, Jr., Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Code of Federal Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to DC-30-10, -107, -30, -20F and -40 series airplanes, certificated in all categories.

Compliance required as indicated.

To minimize the probability of an aborted takeoff following a false stall warning, add a five second delay between nose gear lift off and the initiation of a stall warning, by accomplishing the following:

a. Within 2,500 additional hours time in service, and 250 days from the effective date of this AD, whichever occurs earlier, unless already accomplished, or unless incorporated in production, modify the airplanes in accordance with McDonnell Douglas DC-10 Service Bulletin 23-94 dated August 4, 1977, or later FAA approved revisions.

b. Incorporate revisions in the FAA Approved Airplane Flight Manual, Documents MDC-J1010, MDC-J1000, MDC-J5830, MDC-J1040 and MDC-J5140, by adding the following new heading and text in Section III Procedures:

Stall warning preflight check

Rotate "Stall Test" switch to "I. (MOM)." Note five second delay before stick shaker activation. Rotate "Stall Test" switch to "R. (MOM)." Again note five second delay before stick shaker activation.

c. Equivalent modifications, procedures, or revisions may be used when approved by the Airworthiness Assurance Division, PAA Western Region.

d. Special flight permits may be issued in accordance with FAR's 21.129 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

(See 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1431, and 1433); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.83.)

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 11251, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on September 20, 1977.

WILLIAM R. KUECHER, Acting Director, Federal Aviation Administration, Western Region.

Secretary.

[FR Doc.77-28991 Filed 9-30-77; 8:45 am] [4910-13] [14 CFR Part 71] [Docket No. 77-SO-38]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTED CONTROLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area, Mocksville, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: A public use instrument approach procedure is being developed for the Twin Lakes Airport, Mocksville, N.C., and additional controlled airspace is required for conformance of IFR operations. This proposed rule will designate the Mocksville, N.C., transition area and will lower the base of controlled airspace in the vicinity of the airport from 2,000 feet to 1,200 feet above ground level to accommodate the anticipated IFR operations.

DATES: Comments must be received on or before November 14, 1977.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga., 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320; telephone: 404-763-7640.

SUPPLEMENTAL INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before November 14, 1977, will be considered before action is taken on the proposed amendment.

For an examination by interested persons a report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW, Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Mocksville, N.C., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Twin Lakes Airport, Mocksville, N.C.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division, and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend paragraph (g)(11) of Part 71 of the Federal Aviation Administration Regulations (14 CFR 71) by adding the following:

Mocksville, N.C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Twin Lakes Airport (Lat. 35°27'20" N., Long. 80°27'23" W.); within 3 miles each side of the 278 bearing from the Davie RGN (Lat. 35°34'46" N., Long. 80°27'23" W.); extending from the 6-mile radius area to 8.5 miles west of the RGN.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)(o)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1658(e))).

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 11251, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 23, 1977.

GEORGE R. LACAILLE, Acting Director, Southern Region.

[FR Doc.77-28990 Filed 9-30-77; 7:8:15 am] [4910-13] [14 CFR Part 91] [Docket No. 77-23566; Notice No. 77-21]

GENERAL OPERATING AND FLIGHT RULES

Proposed Elimination of Certain Flight Plan Requirements for Civil Aircraft Operating Between the United States and Canada or Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to revoke the regulation prohibiting operation of civil aircraft between the United States and Canada or Mexico without
prior Air Traffic Control (ATC) authorization or filing of an IFR or VFR flight plan. That this proposal works a hardship upon a significant number of private operators who, to comply, may have to fly a considerable distance out of their way and expend additional flight time and fuel. The FAA believes that this proposal will eliminate the hardship without unduly interfering with efforts by law enforcement agencies to curtail the illicit carriage of narcotic and similar substances in civil aircraft operated between the United States and Canada or Mexico.

DATES: Comments must be received on or before: January 3, 1978.


FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the rulemaking docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3123.

A discussion of proposed rule

In 1973, the FAA adopted § 91.84 as a part of its concerted effort to assist law enforcement agencies in prohibiting the carriage of illicit narcotics, marijuana, and depressant and stimulant drugs or substances in civil aircraft operated between the United States and Canada or Mexico, and to reduce the operational hazards associated with this illegal use of aircraft. Simultaneously, the FAA adopted a number of amendments that were designed to accomplish this purpose. Section 91.84 of Part 91 currently states:

unless otherwise authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

Based on experience under the rule, the FAA believes that the regulation imposes a substantial burden on many affected flights. The hardship is particularly significant on commercial charter flights and some private operations to remote hunting, fishing, or similar camps located in Canada. Since communications in such areas are limited or nonexistent, compliance with § 91.84 frequently requires pilots to fly many miles out of their way to establish communications in order to file or close flight plans. Consequently, compliance with the rule not only causes inconvenience but frequently imposes additional economic burdens on the affected persons in terms of both fuel consumption and flight time.

Many requests for authorizations for waiver of the requirements of the rule have been received. At least one petition for permanent exemption has been filed. Because of the undue burden found in some cases, the FAA, in the public interest, has granted numerous authorizations to aircraft operators to deviate from the provisions of the rule. Due to the substantial number of requests for authorization to operate without filing a flight plan, the FAA has reviewed the continued need for § 91.84 and discussed the matter with other Federal agencies. Based on that review, the FAA believes that it can revoke § 91.84 and yet continue to maintain the current level of safety and assistance to other segments in the elimination of the illicit carriage of narcotics, marijuana, and depressant and stimulant drugs and substances in civil aircraft.

This same level of control would continue to be maintained by the Federal Aviation Administration through its enforcement of several other provisions of the FARs in conjunction with several other Federal agencies (e.g., the Drug Enforcement Administration; the Immigration and Naturalization Service; and the Treasury Department) that are actively engaged in combating the illicit drug traffic.

It should be noted that the adoption of this proposal will not eliminate the necessity for a pilot of civil aircraft to comply with the flight plan requirements of § 99.11 when he operates his aircraft in or penetrates a coastal or domestic air defense identification zone (ADIZ). It also would not affect the flight plan and ATC clearance requirements that § 99.115 imposes upon a pilot operating an aircraft in controlled airspace under IFR.

DRAFTING INFORMATION

The principal authors of this document are Walter J. Moylette, Air Traffic Service, and Gloria J. Williams, Office of the Chief Counsel.

THE PROPOSED RULE

§ 91.84 [Reserved]

Accordingly, the Federal Aviation Administration proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) by revoking § 91.84 and designating it as "Reserved."

(Secs. 207(c), and 313(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(c), 1354(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1355(c), and 14 CFR 114.45.)

NOTE—The Federal Aviation Administrator 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-40.

Issued in Washington, D.C., on September 12, 1977.

CHARLES H. NEUPOL,
Acting Director,
Air Traffic Service.

[FR Doc.77-2395 Filed 9-30-77; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release Nos. 32-8968, 24-13933, 35-20183, IC-9244]

AUDITOR CHANGES

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to amend its rules regarding the reporting of changes of a registrant's independent accountants to require disclosure of (1) the reasons for such changes and (2) whether the decision to change independent accountants was approved by the registrant's Board of Directors or its audit committee. Currently, the reporting of reasons for changing independent accountants is limited to situations involving disagreements between the registrant and its independent accountants on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure. The increased disclosure of facts surrounding a change of auditors should aid investors in better understanding and evaluating the registrant's relationship with its independent accountants.
Proposed Rules

DATE: Comments should be submitted on or before November 30, 1977.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection (File No. ST-720).

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

In addition, the Commission on Auditors' responsibilities recommended the following:

The audit function can and should expand from being oriented to periodic financial statements to include information of an accountant's financial nature that management has a responsibility to report, provided that it is produced by the accounting system and the auditor is competent to verify the information.

The audit should be considered as a function to be performed during a period or time rather than an audit of a particular set of financial statements. The audit function should gradually expand to include all important elements of an entity's financial reporting process.

This increased participation by the independent accountant in the financial reporting process will make it even more important that this relationship be fully understood and appreciated by the investors and other users of financial information. To sustain confidence by the users of the auditors' work product, the Commission and the accounting profession have required that auditors remain independent, both in fact and appearance, of the companies they audit. To assure this independence the Commission has encouraged the formation of audit committees comprised of independent directors.

Such committees can serve as links between the independent accountants and the shareholders and give auditors a level of authority higher than management for the discussion of controversial matters. In furtherance of these objectives, the Commission believes that one of the principal responsibilities of an independent audit committee should be that of recommending the engagement or discharge of the company's independent accountants to the full Board of Directors.

In view of the increased significance of the role of the independent accountant, the Commission believes that investors should be fully informed about the relationship between the company and its auditors. In a concurrent release the Commission is soliciting comment on a rule proposal to require public companies to disclose, in their proxy materials, the independence, of the companies they audit. To sustain confidence by the users of the auditors' work product, the Commission and the accounting profession have required that auditors remain independent, both in fact and appearance, of the companies they audit. To assure this independence the Commission has encouraged the formation of audit committees comprised of independent directors.

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In view of the increased significanc
PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.508 Form 8-K, for current reports.

Item 4. Changes in Registrant's Certifying Accountant.

(a) The reason(s) for the change in certifying accountant.

(b) Item 4.a(1) entered into in connection with the change in certifying accountant.

(c) Item 4.a(2) entered into in connection with the change in certifying accountant.

(d) Item 4.a(3) entered into in connection with the change in certifying accountant.

(e) Item 4.a(4) entered into in connection with the change in certifying accountant.

(f) Item 4.a(5) entered into in connection with the change in certifying accountant.

The Commission is proposing to adopt rules which would require disclosure in a company's proxy materials of (1) the services provided during the last fiscal year by the company's independent auditors and the related fees, (2) whether the board of directors or audit committee has approved all services and the related fees, (3) the company's revenues derived from the independent auditors. The proposed disclosures would provide objective evidence for helping investors to formulate an opinion as to the independence of the auditors. The Commission is also soliciting information and comments on the nature of services auditors provide their audit clients.

DATE: Comments should be submitted on or before November 30, 1977.

ADDRESS: Comments should refer to File No. 8-K and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washing-
Proposed Rules

Management services as potentially reducing the auditor's independence must be a cause for concern. If the views of the minority were supported by empirical evidence of loss of independence, provision of management services would be essential.

This concern has also been reflected in other forums. Some people believe that auditors should not provide any services other than audit services. professors Mauts and Sharaf stated:

For the good of the profession, auditing must be recognized as a specialty separate from the remaining functions of public accountants. Accountants who serve as auditors should perform no other functions for their clients and those who perform other functions should not engage in opinion audits. Our reason for so contending is the incompatibility of auditing with other services. We see auditing as something more than a skilled craft. Auditing is a quasi-judicial function and requires a type of independence that is not required for the performance of any other public accounting type of service.

It has also been observed that it is difficult to separate the functions of auditing from providing advice to management. As a result, it is generally considered desirable that the process should be used to improve the performance of the audit firm. Accordingly, some believe that any lessening of independence as a result of concern for the results of such advice to management is more than offset by the benefits resulting from the auditors' expertise.

It has been argued that is desirable for public accounting firms to provide certain services that result in employing persons with specialized skills who also contribute to innovation and improvement in auditing methods and procedures. In order to provide computerized accounting systems, firms may have to take some of the specialized skills of the employees providing such services to develop audit tools to be used in auditing computerized accounting systems. If such services were not offered by the audit firm, it has been argued that audit quality might suffer. Accordingly, the public interest may be better served by permitting auditors to provide certain services even if it results in some lessening of the appearance of independence.

Certain services (i.e., preparation of income tax returns) may be best provided by accountants who also perform audits since they possess the necessary skills, expertise, and knowledge of the client's financial transactions to most effectively fulfill the responsibilities attendant to the service. The auditors' expertise in certain areas may not be replaceable by practical means. The benefit to independence from prohibiting certain services might be more than offset by the resultant costs.

Various specific services have been suggested as lessening the auditors' independence. When such services are rendered to audit clients. Some of these are actuarial services, tax advice and preparation of tax returns, recruiting of executives and placing former partners and employees with clients. Planning and engineering, market research, and appraisal services.

Requests for Other Comments and Information

The Commission is continuing to gather evidence of the types of services auditors provide. Accordingly, specific responses are solicited from companies, auditors, and other interested persons to the following:

1. A description of each specific kind of service provided by public accounting firms.
2. Information indicating the extent of each such service. Public accounting firms are requested to furnish information as to the amount of fees from each service and the relationship to the audit function.
3. Information as to the reasons any previously provided service has been discontinued, any new service has been initiated, or any service that has been considered is not provided.
4. Should auditors be prohibited from providing their audit clients any non-audit services? If not, which particular services should be permitted? Should any permitted services be limited to a percentage of the audit fee? What is an appropriate limitation?
5. What attributes should be used to evaluate the effect on independence and the desirability of the service being offered by auditors?
6. What services are desirable for auditors to continue in order to maintain employees with specialized skills to contribute to improvements in auditing methods and procedures?
7. Should auditors be permitted to appear before regulatory bodies as experts on matters which affect their clients?

The responses to these matters will provide the Commission with important information in considering proposed rule-making relating to auditors' independence. Respondents are encouraged to supply any other information they believe useful to this issue.

Disclosure of Auditor Services, Fees, and Relationships

The Commission on Auditors' Responsibilities has included a recommendation in its "Report of Tentative Conclusions" that "the nature and extent of other services provided by the auditor should be disclosed in proxy statements." It further stated that:

As noted earlier, the concern of users that provision of other services by the auditor's independence decreases as their knowledge about the services increases. The best way to dispel concerns of any potential conflict of interest is to disclose the facts. The proxy rules for publicly owned companies already require disclosure of the interests of management and other audit committee members. The Commission (OAB) recommends that public companies also disclose, in the proxy statements issued to shareholders that include solicitation or ratification of the election of independent auditors, information on the nature of other services provided to the companies by their independent auditors.

Disclosure in proxy statements to all companies by their auditors and the related fees will provide objective evidence of the types and amounts of services being provided by auditors and rules to require this are proposed. Fees earned from affiliates are also proposed to be disclosed.

While the relationships may vary for a variety of reasons (e.g., poor internal control, centralization of accounting, number of operating divisions, etc.), the amount may serve as the basis for questions by shareholders. In addition the relative importance of the audit fee to the auditor may provide information as to the auditor's economic dependence on the company. Further, the Commission believes it is appropriate for all of the relationships of the auditor and the company to be disclosed to shareholders and this includes the amount of audit fees paid.

The Commission believes that objectivity and independence are enhanced if the auditor deals with an audit committee of independent directors or the board of directors in determining services and fees. In order to provide investors with knowledge of whether the board of directors or audit committee has approved all services provided by the auditors, the Commission proposes to require disclosure of whether such approval has taken place.

The Commission is also concerned about the possible effect on the auditors' autonomy.
independence and objectivity of any understanding or agreement limiting the auditors' fee to an absolute amount. According to, the proposed rule would require disclosure of any such agreement.

Services and products acquired from clients by auditors, if of a sufficient magnitude, may also be perceived as lessening independence if such relationships are not disclosed. The Commission is also proposing that significant revenues of the company derived from its auditors be disclosed in the proxy statement.

Transactions between the company and its auditors that are on terms not customary in the industry or which differ from those offered other customers may also provide evidence that there has been a lessening of independence. Accordingly, the Commission proposes disclosure of such transactions.

The Commission has not defined its use of the word "customary." As it relates to the fees of the auditors, the use of the word "customary" may also provide evidence that there has been a lessening of independence. Accordingly, the Commission proposes disclosure of such transactions.

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Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation and not specifically excluded by other sections of this regulation. The Chief of Engineers, U.S. Army Corps of Engineers, is designated the duly authorized representative of the Secretary of the Army to exercise the authority set out in the Congressional Acts. This regulation will not specifically apply to local flood protection works or activities and responsibilities of the owner and/or operating agency for flood control and navigation. In carrying out the activities and responsibilities cited above, this regulation defines certain phases, and throughout the life of the planning, design and construction phases, and the continuing regulation of flood control and/or navigation storage projects in a system.

(c) Scope and terminology. For the purpose of this regulation, the term "water control agreement" refers to a compilation of water control criteria, guidelines, diagrams, release schedules, rule curves and specifications that basically govern the use of the project's reservoir storage space required for flood control or navigation and/or release functions of a water control project for these purposes. In general, they indicate the relationships of discharge and storage space required for flood control and/or navigation, based on the runoff potential during various seasons of the year.

(d) Procedures. For the purpose of this regulation, the term "water control plan" is limited to the plan of regulation for a water resources project in the interest of flood control and/or navigation. The water control plan must conform with provisions or conditions of the local sponsor, or owner, cooperation agreed to in the authorizing legislative document, and must provide for the compliance with Section 7 of the 1944 Flood Control Act, Section 18 of the Federal Power Act or other special Congressional Act. This information will be specified in the water control plan and manual. The letter of understanding will be signed by a duly authorized representative of the Chief of Engineers and the project owner.

(e) Promulgation of this regulation applies to Federal authorized flood control and/or navigation storage projects, and to non-Federal projects which require the Secretary of the Army to prescribe regulations as a condition of the license, permit or legislation, during the planning, design and construction phases, and throughout the life of the project. In compliance with the authority cited above, this regulation defines certain activities and responsibilities concerning water control management throughout the nation in the interest of flood control and navigation. In carrying out the conditions of this regulation, the owner of a project cannot be required to pay for the services of the Corps and the project owner after coordination with all interested parties, the project name will be entered in the Federal Register and the Corps of Engineers plan will be the official water control plan until such time as differences can be resolved.

(f) The term "real-time" denotes the processing of current information or data that is available at the moment to influence a physical response in the system being monitored and controlled. As used herein the term connotes "real-time" decision making for flood control decisions for both minor and major flood events and for navigation, based on prevailing hydro meteorological and other conditions, are preferred before the project owner is responsible for flood control decisions for both minor and major flood events and for navigation, based on prevailing hydro meteorological and other conditions, and constraints, to achieve efficient management of water resource systems.

(ii) A water control diagram (graphical) will be prepared by the Corps of Engineers for each project having variable space reservation for flood control and/or navigation during the year; e.g., variable seasonal storage, joint-use space, or other rule curve designation. Reservoir level parameters will be included on the diagrams when appropriate. Reservoir notes will be included on the diagrams prescribing the use of storage space in terms of release schedules, runoff, non-damming or other controlling flow rates downstream of the dam and other major factors as appropriate. A water control release schedule will be prepared in tabular form for projects that do not have variable space reservation for flood control and/or naviga-
tion. The water control diagram or release schedule will be signed by a duly authorized representative of the Chief of Engineers, the project owner, and the designated operating agency, and will be used as the basis for carrying out this regulation. Each diagram or schedule will contain a reference to this regulation.

(ii) When deemed necessary by the Corps of Engineers, information given on the water control diagram or release schedule will be supplemented by appropriate text to assure mutual understanding on certain details or other important aspects of the water control plan not covered in this regulation, on the water control diagram or in the release schedule. This material will include clarification of any aspects that might otherwise result in unsatisfactory project performance in the interest of flood control and/or navigation. Supplementation of the agreement will be necessary for each project where the Corps of Engineers exercises the discretionary authority to prescribe the flood control regulation on a day-to-day (real-time) basis. The agreement will include the delegation of the responsibility. The document should also cite, as appropriate, Section 7 of the 1944 Flood Control Act, Section 18 of the Federal Power Act and/or other Congressional legislation authorizing construction and/or directing operation of the project.

(iii) All flood control regulations published in the Federal Register under this section (Part 208) of the Code prior to the date of this publication which are listed in § 208.11(e) are hereby superseded.

(iv) Nothing in this Regulation prohibits the promulgation of specific regulations for a project in compliance with the authorizing Acts, when agreement on acceptable regulations cannot be reached between the Corps of Engineers and the owner.

(b) Hydrometeorological Instrumentation. The project owner will provide instrumentation in the vicinity of the damsite and will provide communication equipment necessary to record and transmit hydrometeorological and reservoir data to all appropriate Federal authorities on a real-time basis. For those projects where the owner retains responsibility for real-time implementation of the water control plan, the owner will also provide or arrange for the measurement and reporting of hydrometeorological parameters required within and adjacent to the watershed and downstream of the damsite, sufficient to regulate the project for flood control and/or navigation in an efficient manner. When data collection stations outside the immediate vicinity of the damsite are required, funds for installation, observation, and maintenance are not available from other sources, the Corps of Engineers may agree to share the costs for such stations with the project owner. Availability of funds and urgency of data needs are factors which will be considered in reaching decisions on cost sharing.

(7) Project Safety. The project owner is responsible for the safety of the dam and appurtenant facilities and for regulation of the project during surcharge storage utilization. Emphasis upon the safety of the dam is especially important in the event surcharge storage is utilized, which results when the total storage space reserved for flood control is exceeded. Any assistance provided by the Corps of Engineers concerning surcharge regulation is to be utilized at the discretion of the project owner, and does not relieve the owner of the responsibility for safety of the project.

(8) Notification of the General Public. The Corps of Engineers and other interested Federal and State agencies, and the project owner will jointly sponsor public involvement activities, as appropriate, to fully apprise the general public of the water control plan. Public meetings or other effective means of notification and involvement will be held, with the initial meeting being conducted as early as practicable but not later than the time the project first becomes operational. Notice of the initial public meeting shall be published once a week for three consecutive weeks in one or more newspapers of general circulation published in each county covered by the water control plan. Such notice shall also be used when appropriate to inform the public of modifications in the water control plan. If no newspaper is published in a county, the notice shall be published in one or more newspapers of general circulation within that county. For the purposes of this section a newspaper is one qualified to publish public notices under applicable state law. Notice shall be given in the event significant problems are anticipated or experienced that will prevent carrying out the approved water control plan or in the event that an extreme water condition is expected that could produce severe damage to property or loss of life. The means for conveying this information shall be commensurate with the urgency of the situation. The water control manual will be made available for examination by the general public upon request at the appropriate office of the Corps of Engineers, project owner or designated operating agency.

(c) Other Generalized Requirements for Flood Control and Navigation. (1) Storage space in the reservoirs allocated for flood control and navigation purposes shall be kept available for those purposes in accordance with the water control agreement, and the plan of regulation in the water control manual.

(2) Any water impounded in the flood control space defined by the water control agreement shall be evacuated as rapidly as can be safely accomplished without causing downstream flows to ex-
ceed the controlling rates; i.e., releases from reservoirs shall be restricted no fur-
ther as practicable to quantities which, in combination with uncontrolled run-
off downstream of the dam, will not cause water levels to exceed the controlling
stages currently in force. Although conflicts may arise with other purposes, such as
hydro-power, the plan or regulation may require releases to be completely
curtailed in the interest of flood control
or safety of the project.

Nothing in the plan of regulation for flood control shall be construed to require
or allow dangerously rapid changes in magnitudes of releases. Re-
leases will be made in a manner consistent with requirements for protecting
the dam and reservoir from major dam-
age during passage of the maximum de-
sign flood for the project.

The project owner shall monitor current reservoir and hydrometeorologi-
cal conditions in and adjacent to the watershed and downstream of the dam-
site, as necessary. This and any other pertinent information shall be reported
to the Corps of Engineers on a timely basis, in accordance with standing in-
structions to the damtender or other means requested by the Corps of Engineers.

In all cases where the project owner retains responsibility for real-
time implementation of the water con-


The water control plan is subject to temporary modification by the Corps of Engineers if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

The project owner may tempo-
rarily deviate from the water control plan in the event an immediate short-
term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious haz-
ards. Such actions shall be immediately reported by the fastest means of commu-
nication available. Actions shall be con-


Advance approval of the Chief of Engineers, or his duly authorized representative, is required prior to any deviation from the plan of regulation pre-
scribed or approved by the Corps of En-
gineers in the interest of flood control
and/or navigation, except in emergency
situations provided for in paragraphs
(d) (e) (vii) of this section. When condi-
tions appear to warrant a prolonged de-


Revisions. The water control plan and all associated documents will be revised by the Corps of Engineers as necessary, to reflect changed conditions that come to bear upon flood control and navigation, e.g., reallocation of reservoir storage space due to sedimentation or transfer of storage space to a neighbor-
ing project. Revision of the water con-


The following information for each project subject to Section 7 of the 1944 Flood Control Act and other applicable Congressional acts shall be published in the Federal Regis-
ter prior to the time the projects be-
comes operational and prior to any signif-
ificant impoundment before project
completion or at such time as the respon-
sibility for physical operation and main-
tenance of the Corps of Engineers owned
projects is transferred to another entity: (i) Reservoir, dam, and lake names, (ii)
stream, county and state corresponding
to the damsite location, (iii) the maxi-
mum current storage space in acre-feet to be reserved exclusively for flood con-


Congressional legislation authorizing the project for Federal participation.

(e) List of projects. The following tables, "Pertinent Project Data—§ 208.11
Rule," show the pertinent data for projects which are subject to this regu-


FEDERAL REGISTER, VOL 42, NO. 191—MONDAY, OCTOBER 3, 1977
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<td>6.0 10034.0 10027.5 957 920</td>
<td>Bureau of Rec.</td>
<td>FL 76-640</td>
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<td>Pineville Dam &amp; Reservoir</td>
<td>Crooked Creek</td>
<td>Crook, Or.</td>
<td>153.0 3234.8 3112.0 2990 120</td>
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<td>FL 84-992</td>
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<td>Prosser Creek &amp; Reservoir</td>
<td>Prosser Creek</td>
<td>Nevada, Ca.</td>
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<td>Red Willow Dam &amp; Hugh Butler Lake</td>
<td>Red Willow Creek</td>
<td>Frontier, Nb.</td>
<td>50.0 2694.9 2581.8 2682 1629</td>
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<td>Savage River Dam &amp; Reservoir</td>
<td>Savage River</td>
<td>Garrett, Hi.</td>
<td>- - - -</td>
<td>Upper Potomac River Commission</td>
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<td>Shadehill Dam &amp; Reservoir</td>
<td>Grand River</td>
<td>Perkins, S.D.</td>
<td>217.7 2302.2 2272.0 9900 4800</td>
<td>Bureau of Rec.</td>
<td>FL 78-534</td>
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<td>Shasta Dam &amp; Lake</td>
<td>Sacramento River</td>
<td>Shasta, Ca.</td>
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<td>Bureau of Rec.</td>
<td>FL 75-392</td>
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<td>Smith Mtn &amp; Lesnville Dam &amp; Res.</td>
<td>Roanoke River</td>
<td>Bedford, Campbell &amp; Pittsylvania, Va.</td>
<td>1300.0 1067.0 1018.6 29570 23894</td>
<td>Appalachian Power Co.</td>
<td>FL 75-688</td>
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</table>

This table provides pertinent project data for various water management projects, including storage capacity limits and areas, and details the owners and associated legislation for each project.
<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>STREAM</th>
<th>COUNTY &amp; STATE</th>
<th>EXCLUSIVE Flood Control/Navigation</th>
<th>MULTIPLE-USE Flood Control/Navigation</th>
<th>PROJECT OWNER</th>
<th>AUTH. LEGIS.</th>
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<td>Trenton Dam &amp; Reservoir</td>
<td>Republican</td>
<td>Hitchcock, Nm.</td>
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<td>Cuyama River</td>
<td>Santa Barbara, Ca.</td>
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<td>Warm Springs Dam &amp; Res.</td>
<td>Middle Fork Malheur River</td>
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<td>27.7 617.5 592.0 1330 890</td>
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<td>State of Vermont</td>
<td>PL 83-436</td>
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<td>1000 feet m.s.l. acres</td>
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<td>ac-ft. UPPER LOWER</td>
<td>ac-ft. UPPER LOWER</td>
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</table>
Environmental Protection Agency

[40 CFR Part 205]

BUSINESSES

Noise Emission Standards for Transportation Equipment

Correction

In FR Doc. 77-26375 appearing at page 45775 in the issue for Monday, September 12, 1977, in the first column of page 45776, in the "Dates," paragraph, in the fifth line, the words, "90 days from date of publication" should read "December 12, 1977."

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 67, 68, 80, 89, 47CFRPart 67]

COMMON CARRIERS BETWEEN UNITED STATES MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/VIRGIN ISLANDS

Integration of Rates and Services for Provision of Communications

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order, Docket 21264.

SUMMARY: The Federal-State Joint Board has set a pleading schedule for comments and replies on the question of what separations formula should be applied for Puerto Rico and the Virgin Islands. The Joint Board also adopted procedures that it will operate and will establish the pleading schedule for the development of information leading to the preparation of a recommended decision.

2. This proceeding is a result of the Commission's rate integration policy, which is designed to eliminate the distinctions in levels of charges and rate making between the mainland and the territories of Puerto Rico and the Virgin Islands. The Commission has stated that it anticipates that full implementation of rate integration will result in the affected carriers participating in the division of revenues in the interim service pool on the same basis as mainland companies, e.g., the recovery of their costs associated with the provision of telephone service and a rate of return. "Reconsideration of Integration of Rates and Services", FCC 77-366, released June 6, 1977. To accomplish this goal the Joint Board will require the affected carriers to file and operate a prompt plan to develop an adequate record. Such a plan will operate and will establish the pleading schedule for the development of information leading to the preparation of a recommended decision. 3. The notice creating this Joint Board clearly pointed out the Commission's initial impression that the jurisdictional separations procedures applicable on the mainland should also pertain to the carriers providing message telephone service to Puerto Rico and the Virgin Islands. The Joint Board also adopted procedures that it will operate and will establish the pleading schedule for the development of information leading to the preparation of a recommended decision.

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53647

PROPOSED RULES
PROPOSED RULES

until the separations methodology is prescribed in this docket. In addition, we reemphasize that comments are to be limited to what changes, if any, should be made to the existing NARUC-FCC Separations Manual so as to make it applicable to Puerto Rico and the Virgin Islands. It is imperative that if changes are proposed, that the proposed modifications be supported in the record in such a manner that this Joint Board has a record on which to make its decision.

7. Accordingly, it is ordered, That a notice and comment procedure is instituted into the issues specified in paragraph 3 of this Memorandum Opinion and Order;

8. It is further ordered, That any interested party may file, on or before October 25, 1977, a notice of intention to participate. The Joint Board shall then issue a Public Notice stating the names of parties intending to participate herein. All comments, replies, and other submissions in this proceeding shall be served on all parties listed in the Public Notice;

9. It is further ordered, That any interested person participating in this proceeding shall file comments on or before December 1, 1977, and replies shall be filed on or before January 16, 1978;

10. It is further ordered, That all participants shall file an original and six copies of all comments, replies, or other submissions with the Secretary, Federal Communications Commission and one copy with each of the State Commission members at addresses specified by them.

SUMMARY. This is to make clear that the proposed rule, published in the Federal Register of September 22, 1977, volume 42, at page 47853, would apply only to motor common carriers and freight forwarders of household goods. The words “of household goods” should be inserted in the text of the proposed rule and in the supplementary information section of the notice after the words “freight forwarder(s)” wherever found.

EFFECTIVE DATE: September 27, 1977.


FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202-385-7693).

Accordingly, in the Supplementary Information section and in the proposed amendment to § 1080.2(c) published at 42 FR 47853, September 22, 1977, insert the words “of household goods” after the words “freight forwarder(s)” wherever they appear.

H. G. Homme, Jr., Acting Secretary.

[FR Doc. 77-29012 Filed 9-30-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
DEPARTMENT OF AGRICULTURE  
Office of the Secretary  
MEAT IMPORT LIMITATIONS  
Fourth Quarterly Estimates  
Pub. L. 89-482, approved August 23, 1964 (Hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.  
In accordance with the requirements of the Act, the following fourth quarterly estimates for 1977 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year is 1,165.4 million pounds.  
2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1977 is less than 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.  
Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1977 on the importation of fresh, chilled, frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Public Law 89-482 at this time.  
This estimate is based upon information provided by the Department of State that agreements have been reached with major supplying countries to limit meat imports into the United States in 1977. Were it not for these voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C. this 27th day of September, 1977.  
ROD BERGLAND,  
Secretary.  

[FR Doc.77-28932 Filed 9-30-77; 8:45 am]

CIVIL AERONAUTICS BOARD  
ASPIN AIRWAYS, INC., ET AL.  
Order instituting an Investigation  
Correction  
In FR Doc. 77-27464 appearing at page 47575 in the issue for Wednesday, September 21, 1977, in the bracketed material below the first paragraph of the third column of page 47575, “Order No. 77-52” should have read “Order No. 77-92-2.”

[6320-01]  
AIR CHARTER TOUR OPERATORS OF AMERICA  
Cancellation of Meeting  
Notice is hereby given that a briefing to be given by the Air Charter Tour Operators of America on September 30, 1977, at 10 a.m., in Room 1027, Universal Building, 1825 Connecticut Avenue NW, Washington, D.C., has been cancelled and will be rescheduled at a later date.  
PHYLLIS T. KAYSSON,  
Secretary.  

[FR Doc. 77-28932 Filed 9-30-77; 8:45 am]

[6320-01]  
WICHITA CASE, ET AL.  
Addition of Case for Oral Argument  
Improved authority to Wichita case, Docket 28848; additional Dallas/Fort Worth-Kansas City nonstop service case, Docket 28778; Phoenix-Des Moines/Milwaukee route proceeding, Docket 28800; Sacramento-Denver nonstop case, Docket 28901; Memphis-Twin Cities/Milwaukee case, Docket 28960; Greenville/Sparanburg - Washington/New York subpart M case, Dockets 24778 and 28308.  
The Board has decided to include the Greenville/Sparanburg - Washington/New York subpart M case, Dockets 24778 and 28308, with the other above-described cases on which oral argument on limited issues heretofore has been scheduled to be held on October 12, 1977 (42 F.R. 53452, September 30, 1977). The argument will be heard on the issues (a) with respect to the subsidy condition to be imposed on authority granted a local service carrier and (b) whether the authority should be permissible or not, which are being considered in the above-entitled cases. These issues are more fully described on page 3 of Order 77-8-146. The time and place of the oral argument before the Board are October 12, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW, Washington, D.C., as previously established.  
The respective views of the local service carriers, the trunkline carriers, the civic parties, and any other groups of parties which may wish to appear shall be presented by a common spokesman for each group of interests. Each of these groups which wishes to participate in the oral argument shall provide the name of the person selected, in writing, to be received in this office on or before October 4, 1977.  
Dated at Washington, D.C., September 27, 1977.  
HENRY M. SWEETAN,  
Acting Chief  
Administrative Law Judge.

[FR Doc.77-29331 Filed 9-30-77; 8:45 am]

[6320-01]  
INTERNATIONAL AIR TRANSPORT ASSOCIATION  
Order; Currency Matters  
Issued under delegated authority September 21, 1977.  
An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement was adopted at the Composite Cargo Traffic Conference held in Vancouver in May 1977.  
The agreement would establish currency adjustment factors for application with cargo rates and minimum charges between points within TCA (Europe/Middle East/Africa), and is intended to relate local currency selling rates more closely to fluctuating foreign exchange values. We will approve the agreement insofar as it affects rates which are combinable with rates to/from the...
United States and this has indirect application in air transportation as defined by the Act.
Pursuant to authority duly delegated by the Board's regulations, 14 CFR 385.14, it is not found that Resolution 275/022aa, incorporated in Agreement C.A.B. 26882, is adverse to the public interest or in violation of the Act.
Accordingly, it is ordered, That: Agreement C.A.B. 26882 is approved.
Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.
This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.
This order will be published in the Federal Register.

PHYLLIS T. KAYLOR, Secretary.

[FR Doc.77-29033 Filed 0-30-77;8:45 am]

[6320-01]  
INTERNATIONAL AIR TRANSPORT ASSOCIATION  
Order; Specific Commodity Rates  
Issued under delegated authority September 21, 1977.
An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 560 dealing with specific commodity rates.
The agreement would extend specific commodity rates under an existing commodity description as set forth below, reflective of reductions from general cargo rates; and was adopted pursuant to unprotected notice to the carriers and promulgated in an IATA letter dated July 28, 1977.

The agreement being approved, it is ordered,  

This order will be published in the Federal Register.

PHYLLIS T. KAYLOR, Secretary.

[FR Doc.77-29034 Filed 9-30-77;8:45 am]

[6335-01]  
COMMISSION ON CIVIL RIGHTS  
Meeting Date Change  
This 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 Pennsylvania Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 noon on October 25, 1977 at the Federal Building, 10th Floor, 600 Arch Street, Room 10320, Philadelphia, Pa. 19123.
Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2150 L Street NW, Washington, D.C. 20537.
The purpose of this meeting is to discuss civil rights issues within the state. This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.
Dated at Washington, D.C., September 27, 1977.

JOHN L. BINKLEY,  
Advisory Committee Management Officer.

[FR Doc.77-29014 Filed 9-30-77;9:48 am]

[3510]  
DEPARTMENT OF COMMERCE  
Foreign-Trade Zones Board  
[Docket No. 9-77]  
FOREIGN-TRADE ZONE—ORANGE COUNTY, NEW YORK  
Application and Public Hearing  
Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Orange, N.Y., requesting authority to establish two general-purpose foreign-trade zone sites in Orange County, adjacent to the New York City Customs port of entry, Site No. 1 would be located in the Sage Building at Stewart Airport, a former military facility currently owned by the Metropolitan Transportation Authority, a New York State agency. Site No. 1 is a 4.9-acre site located on State Route 307, approximately one mile from Stewart Airport, is to be located in a proposed 65-acre industrial park. Both sites are within the Town of New Windsor. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 19, 1977. The County is authorized to make application under Chapter 585 of the New York Laws of 1975, effective August 1, 1975.
The proposal was developed under the aegis of the Foreign Trade Zone Management Board of Orange County, consisting of members of the State Legislature and community leaders. This body publicly invited proposals for the develop-
NOTICES


Dated: September 27, 1977.

JOHN J. DA FONTA, Jnr., Executive Secretary, Foreign Trade Zone Board.

[FR Doc.77-26339 Filed 9-30-77; 8:45 am]

[3510-13 ]

National Bureau of Standards
COMMERCIAL STANDARD
Intent To Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Commercial Standard CS 243-62, "Stainless Steel Plumbing Fixtures (Designed for Residential Use)."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of CS 243-62 is adequately covered by the American National Standards Institute's standard ANSI A112.18.3, "Stainless Steel Plumbing Fixtures (Designed for Residential Use)."

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures; from the effective date of withdrawal.

Dated: September 27, 1977.

ERNEST AMBLET, Acting Director.

[FR Doc.77-26339 Filed 9-30-77; 8:45 am]

[3510-12 ]

National Oceanic and Atmospheric Administration

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL AND GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

The South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council (both established by section 302 of the Fishery Conservation and Management Act of 1976, Pub. L. 94-265) will meet both jointly and separately, at the Hyatt Regency House, 6375 Space Coast Parkway, Kissimmee, Fla. The joint meeting starts at 1:30 p.m., November 16; and adjourns about noon, November 16, 1977.

Proposed agenda. Discussion of mutual matters of interest and concern to both Councils.

The South Atlantic Fishery Management Council, the Scientific and Statistical Committee and its Advisory Panel will meet in separate session November 16-17, 1977, in Kissimmee, Fla. Meeting starts at 1:30 p.m. on November 16 and adjourns about 5 p.m. on November 17.

Proposed agenda. Fishery management plans being developed.

The Gulf of Mexico Fishery Management Council will meet separately November 16-17, 1977, in Kissimmee, Fla. This meeting starts at 1:30 p.m. on November 16 and adjourns about 5 p.m. on November 17.

Proposed agenda. (1) Management plans; (2) personnel and administration matters; (3) review of federal fishing applications, if any; (4) other fishery management business.

These three meetings are open to the public. For more information regarding changes to the agenda, or written comments, contact either Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, S.C. 29407, telephone 803-571-4366; or Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 W. Kennedy Boulevard, Tampa, Fla. 33607, telephone 813-228-2815.

Dated: September 27, 1977.

WINFIELD H. MERRIMAN, Associate Director, National Marine Fisheries Service.

[FR Doc.77-26315 Filed 9-20-77; 8:45 am]

[3510-17 ]

Office of the Secretary

ADVISORY PANEL FOR THE WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Establishment


The Panel will provide the parent Council with pragmatic advice in counsel of the people most affected by the Council's management activities on matters of fishery management policy, on the
NOTICES

preparation of fishery management plans, on their views prior to submission to the Secretary, and on their effectiveness in operation.

The Panel will consist of approximately 50 members who are either actually engaged in the harvest, process, or consumption of, or who are knowledgeable and interested in the conservation and management of fishery resources. Members of the Panel will be appointed by the Council.

The Panel will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Panel’s Charter will be filed under the Act with the concerned Congressional committees. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.


Elsa A. Porter, Assistant Secretary for Administration.

[FR Doc.77-28940 Filed 9-30-77; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXTENDING THE COTTON, WOOL AND MAN-MADE FIBER TEXTILE AGREEMENT WITH THE REPUBLIC OF KOREA


AGENCY: Committee for the Implementation of Textile Agreements.


SUMMARY: Notes have been exchanged between the Governments of the United States and the Republic of Korea extending the third year of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1976, as amended, for three-months, through December 31, 1977. Accordingly, the specific levels of restraint previously established for the twelve-month period which began on October 1, 1976, for cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea, are being increased to reflect the extended agreement period.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On October 1, 1976, there was published in the Federal Register (41 FR 43460) a letter dated September 28, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established the levels of restraint applicable to certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977. A correction in certain of the levels of restraint was published in the Federal Register on November 5, 1976 (41 FR 49765).

In the letter of September 28, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit entry into the United States for consumption or withdrawal from warehouse for consumption of the designated categories of cotton, wool and man-made fiber textile products to the indicated 15-month levels of restraint.

ROBERT E. SHIFRIN
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.


COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
WASHINGTON, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning import entries into the United States of certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Paragraph 1 of the directive of September 29, 1976 is further amended, effective on October 1, 1977, to read as follows: “Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 30, 1976, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1976, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1976, you are directed to prohibit, effective on October 1, 1977 and for the fifteen-month period extending from October 1, 1976 through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9/10, 10/10/26 (print-cloth), 20/26, 26 (duck), 30, 42/43 and part of 62, 45/66/67, 48, 49, 60/61, 63, part of 68, and 68; wool textile products in Categories 104, 116/117, 120, 121, and 124; and man-made fiber textile products in Categories 208, 210, 218, 219, 220, 221, 222, 224, 226, 228, 234, 236, 237, and 238 in excess of the following levels of restraint:

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The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the Implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

This letter will be published in the Federal Register.

Sincerely,

Robert E. Shepherd, Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-2903 Filed 9-30-77; 8:45 am]

[3510-25]

EXTENDING THE BILATERAL COTTON TEXTILE AGREEMENT WITH INDIA


AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Extending the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India.

SUMMARY: Notes have been exchanged between the Governments of the United States and India extending the Cotton Textile Agreement of August 6, 1974, as amended, for one month, through October 31, 1977. Accordingly, the specific levels of restraint previously established for cotton textiles and cotton textile products under the terms of this agreement are being increased to reflect the extension.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On September 30, 1976, there was published in the Federal Register (41 FR 43235) a letter dated September 29, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements, which established the levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977. In the letter of September 29, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit entry into the United States and India of textiles and cotton textile products under the terms of this agreement.
States for consumption and withdrawal from warehouse for consumption of the indicated categories and groups of categories, produced or manufactured in India, to the designated thirteen month levels of restraint.

ROBERT E. SHEPHERD, Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce,


COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton textiles and cotton textile products, produced or manufactured in India.

Paragraph 1 of the directive of September 29, 1976 is amended in the following manner:

"Under the terms of the Agreement Regarding International Trade in Textiles, signed in Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11851 of March 3, 1972, you are directed, effective on October 1, 1977, and for the thirteen month period beginning on October 1, 1977, and extending through October 31, 1977, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of the following goods. These goods shall be accompanied by an export visa."


The action taken with respect to the government of India and with respect to imports of cotton textiles and cotton textile products from India, have been determined by the Committee for the Implementation of Textile Agreements, to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ROBERT E. SHEPHERD, Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc. 77-28984 Filed 9-30-77; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE
Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C3) Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (Counter-C3) will meet in closed session on 15 October 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the communications, command and control (C3) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

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


[FR Doc. 77-28906 Filed 9-30-77; 8:45 am]

[3810-70]

ARMS FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 82-463) announcement is made of the following board meeting:

NAME OF COMMITTEE: Subcommittee on Health Maintenance Systems of the Armed Forces Epidemiological Board.

DATE OF MEETING: October 20–21, 1977.

PLACE: Officers' Club Conference Room, School of Aerospace Medicine, Brooks Air Force Base, San Antonio, Tex.


PROPOSED AGENDA: The proposed agenda will include a briefing on the U.S. Air Force School of Aerospace Medicine, a briefing on the USAF Health Maintenance Program "HEART", briefings on the hearing conservation program of the three military departments, a discussion of the "Women in the Air Force Study", a briefing on the development of physical fitness tests for various military occupations, a discussion of data on physical capabilities and limitations of women in the Armed Forces and Committees discussions for the development of recommendations.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the executive secretary, DASC-AFEB, Room 1B472, Pentagon, Washington, D.C. 20310.


DIANE C. ERIKSON, LTC, MSC, USA, Executive Secretary.

[FR Doc. 77-28906 Filed 9-30-77; 8:45 am]
NOTICES

[3810-70]
ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (PL 92-463) announcement is made of the following committee meeting:

NAME OF COMMITTEE: Armed Forces Epidemiological Board ad hoc subcommittee on detection of wartime chemical contamination in the field water supplies.


PLACE: Room 5E069 Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

TIME: 0900-1600.

PROPOSED AGENDA: The proposed agenda will include the discussion of problems related to detection of chemical contaminants in field water supplies in the combat environment and means available or under development to remove them.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.


DUANE G. ERICKSON, LTC, MSC, USA, Executive Secretary.

[FR Doc.77-29004 Filed 9-30-77; 8:45 am]

[6170-01]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
SOLAR WORKING GROUP

Determination To Establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of a Solar Working Group as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management Secretariat of OMB concurs in the simultaneous publication of this Notice and the filing of the Charter.

Name of Advisory Committee: Solar Working Group.

Purpose: The Committee's objectives and scope of activities and duties are to provide guidance and evaluation by making an assessment of ERDA's solar programs. Effective date of establishment and duration: The advisory committee is established effective October 1, 1977. The advisory committee's termination date will be with the submission of its report not later than April 1, 1978.

Membership: The membership of the advisory committee shall be balanced fairly in terms of the points of view represented and the functions to be performed by the advisory committee. Approximately 12 members from the fields of science, academia, utilities, and other sectors of the general public will serve on the committee. There will be no discrimination based on race, color, creed, national origin, religion, or sex.

Operation: The Solar Working Group will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), ERDA policy and procedures (10 CFR Part 707), OMB Circular A-63 (Revised), and other directives and instructions issued in accordance with the implementation of the Act. The Solar Working Group will meet approximately five times. An agenda for each meeting will be developed. The staff of the former General Advisory Committee (GAC) will provide on a continuous basis all information on solar energy programs, issues, and policies reasonably requested by the committee to perform its functions. Staff support will be provided to the committee by the staff of the GAC.

HARRY L. PEASE
Deputy Advisory Committee Management Officer.

SEPTEMBER 29, 1977.

[FR Doc.77-29132 Filed 9-30-77; 8:45 am]

COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM

Availability of Draft Environmental Impact Statement

Notice is hereby given that a Draft Environmental Impact Statement, ERDA 1557-3, Coal Research, Development and Demonstration Program (September 1977) was issued under Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of ERDA's Coal Research, Development and Demonstration Program, and assesses the potential impacts of the development of a commercial coal conversion and combustion industry resulting from this program. The statement also assesses the impacts associated with concomitant developments such as mining and transportation of the coal need to support the ERDA project. In addition, the socioeconomic impacts associated with community development and expansion caused by the industry are assessed. The statement also assesses alternatives to the program.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal agencies, Clearinghouses of all Fifty States, public and other organizations and individuals that may have an interest in this program.

Copies of the statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 29 Massachusetts Avenue NW., Washington, D.C.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base, Albuquerque, N.M.

Chicago Operations Office, 5900 South Cass Avenue, Argonne, Ill.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.


Los Alamos Operations Office, 2753 South Highland, Las Vegas, Nev.


San Francisco Operations Office, 1333 Broadway, Oakland, Calif.

Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

In addition, a copy will be placed in the:

Regional Energy/Environmental Information Center, Denver Public Library, 1337 Broadway, Denver, Colo.

Comments and views concerning the draft environmental impact statement are requested from other interested agencies, organizations and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station F-301, Energy Research and Development Administration, Washington, D.C. 20545 (301-353-4241). Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Emphasis should be placed specifically on the assessment of the environmental impacts of the proposed project, and the acceptability of the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final environmental impact statement, if received within 90 days of this notice.

Dated at Germantown, Md., the 25th day of September 1977.
For the Energy Research and Development Administration.

James L. Liverman, Assistant Administrator, for Environment and Safety.

[FR Doc.77-29197 Filed 9-30-77; 11:34 a.m.]

[6170-01]

LONG-TERM MANAGEMENT OF DEFENSE HIGH-LEVEL RADIOACTIVE WASTES (IDAHO CHEMICAL PROCESSING PLANT, IDAHO NATIONAL ENGINEERING LABORATORY, IDAHO FALLS, IDAHO)


Notice is hereby given that in accordance with the National Environmental Policy Act, the Energy Research and Development Administration (ERDA) intends to prepare a programmatic environmental impact statement (EIS) concerning the long-term management of the high-level radioactive wastes that are generated as part of the national defense effort at the Idaho Chemical Processing Plant (ICPP) located near Idaho Falls, Idaho. Currently, these radioactive wastes are stored at the Idaho site.

The environmental impacts of the continuing waste management operations at the plant were assessed in ERDA-1536, a draft environmental impact statement issued in June 1976 (41 FR 27778, July 6, 1976). This new programmatic statement will assess the environmental impacts associated with the reasonably available alternatives for ultimate disposal of the wastes in an environmentally acceptable manner for periods of time required for the radioactivity to decay to safe levels, i.e., hundreds to thousands of years. Research and development programs are being performed at the Idaho Chemical Processing Plant on alternative modes for the long-term management of these defense wastes.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. In order to provide background regarding the state-of-the-art of various technologies to be considered for use in disposal of the wastes, ERDA has prepared a Defense Waste Document (DWD), "Alternatives for Long-Term Management of Defense High-Level Waste" (ERDA-77-43). The preparation of this DWD was announced October 18, 1976 (41 FR 55901). This DWD describes the alternative technologies with respect to their probable relative costs, risks, and uncertainties. Three basic alternatives and several variations are included in the DWD. These alternatives range from continuing the storage of high-level waste as a granular solid (calcine) in stainless steel bins within concrete vaults at the ICPP (which is the "no action" alternative), to conversion of the waste to a glass form and shipment to an off-site Federal repository.

The EIS will assess the environmental impact of the main candidate plans using the DWD as a reference source of technology input. The EIS will provide environmental input into decisions related to the research, development, demonstration activities and engineering design studies required to establish an environmentally acceptable mode of disposal for these high-level radioactive wastes.

Interested persons or persons desiring to submit comments or suggestions on the DWD or the scope or content of the EIS should submit them to W. P. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, U.S. Energy Research and Development Administration, Washington, D.C. 20545, telephone 301-533-4261, on or before November 1, 1977. These comments will be considered in the preparation of the draft EIS. Those desiring a copy of the DWD for use in preparing comments or suggestions, or a copy of the draft EIS when it is issued, should notify Mr. Pennington.

Copies of the DWD, the Idaho waste management EIS (ERDA-1536), and other documentation to be used in the preparation of the new EIS are available for public inspection at the public document room located at the Idaho Operations Office at Idaho Falls. Copies of ERDA-1536; the Savannah River DWD, ERDA-77-42; the ID DWD, ERDA-77-43 are available for public inspection at ERDA's public document rooms located at:


Albuquerque Operations Office, 8000 South Closs Avenue, Argonne, Ill.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.

Idaho Operations Office, 560 Second Street, Idaho Falls, Idaho

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.


San Francisco Operations Office, 1333 Broadway, Oakland, Calif.

Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Regional Energy/Environmental Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration on January 16, 1977. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 63, Oak Ridge, Tenn. 37830 (615-483-9111), extension 3672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 27th day of September 1977, for the Energy Research and Development Administration.

James L. Liverman, Assistant Administrator, for Environment and Safety.

[FR Doc.77-5010 Filed 9-30-77; 11:34 a.m.]

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
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PORTSMOUTH GASEOUS DIFFUSION PLANT EXPANSION PIKE COUNTY, PIKETON, OHIO

Availability of Final Environmental Statement

Notice is hereby given that a Final Environmental Statement, ERDA-1545, Portsmouth Gaseous Diffusion Plant Expansion, Pike County, Piketon, Ohio (September 1977), was issued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. At the time the draft statement was issued, it was thought that the demand for additional enrichment capacity required that it be available by 1985. The gaseous diffusion process was the only technology thought to be able to provide the needed additional enrichment capacity in that time frame. Therefore, the draft environmental statement focused on the environmental effects of expanding the capacity at Portsmouth via this process. Upon further review, it was determined that the expansion of uranium enrichment capacity could be delayed from 1 to 2 years permitting the gas centrifuge process to be developed as a reasonable alternative in the new time frame. The President subsequently announced in his April 1977 energy message that the gas centrifuge process will be used in place of the gaseous diffusion process in the next addition to uranium enrichment capacity. Accordingly, Section 5.1.3 on a gas centrifuge plant at Portsmouth has been expanded in the final statement.

Copies of the final environmental impact statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW, Washington, D.C.
Chicago Operations Office, 9000 South Cass Avenue, Argonne, Ill.
Ontario Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration on October 15, 1976. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830 (615-483-0611), extension 5672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 28th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVESTRUM, Assistant Administrator for Environment and Safety.

AIR POLLUTION PREVENTION AND CONTROL

Addition to the List of Categories of Stationary Sources

Section 111 of the Clean Air Act (42 U.S.C. 1857c-6) directs the Administrator of the Environmental Protection Agency to publish, and from time to time revise, a list of categories of stationary sources which he determines may contribute to or cause air pollution which causes or contributes to the endangerment of public health or welfare. Within 120 days after the inclusion of a category of stationary sources in such list, the Administrator is required to propose regulations establishing standards of performance for new and modified sources within such category. At present standards of performance for 24 categories of sources have been promulgated.

The Administrator, after evaluating available information, has determined that stationary gas turbines are an additional category of stationary sources which meets the above requirements. The basis for this determination is discussed in the preamble to the proposed regulation that is published elsewhere in this issue of the Federal Register (see FR Doc. 77-28721). Evaluation of other stationary source categories is in progress, and the list will be revised from time to time as the Administrator deems appropriate. Accordingly, notice is given that the Administrator, pursuant to section 111(b)(1)(A) of the Act, and after consultation with appropriate advisory committees, experts and Federal departments and agencies in accordance with section 107(f) of the Act, effective October 3, 1977, amends the list of categories of stationary sources to read as follows:

LIST OF CATEGORIES OF STATIONARY SOURCES AND CORRESPONDING AFFECTED FACILITIES

5.1.3 Source Category

50. STATIONARY GAS TURBINES

AFFECTED FACILITIES

GAS TURBINES

Proposed standards of performance applicable to the above source category appear elsewhere in this issue of the Federal Register.


DOUGLAS M. COSTELLO, Administrator.

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ILLINOIS

Submission of State Plan for Certification of Commercial and Professional Applicators

In accordance with the provisions of Section 401(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 975; 7 U.S.C. 136 et seq.) and 40 CFR 171, the Honorable James R. Thompson, Governor of the State of Illinois, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Contingent approval is being requested pending the Governor's signature to the Illinois Structural Pest Control Act, and promulgation of implementing regulations. Copies of pertinent laws, regulations, proposed legislative amendments and regulations, and other related documents are attached to the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region V, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together with all attachments (except written examinations), may be examined during normal business hours at the following locations:


SUMMARY OF STATE PLAN

The Illinois Department of Agriculture (IDA) has been designated as the...
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State lead agency for the administration of the pesticide applicator certification program including enforcement activities. The Division of Agricultural Industry Regulation, IDA, will be responsible for the implementation and maintenance of state plan provisions, except for certification and enforcement activities relating to field, laboratory, and office activities relating to pesticide regulation under state laws administered by IDA.

Cooperating agencies include the Illinois Department of Public Health (IDPH) and the University of Illinois Cooperative Extension Service (ICES). The IDPH will be responsible for certifying commercial applicators engaged in Industrial, Institutional, Structural, and Health Related Pest Control (Category 7). Other responsibilities of IDA include registration of all EPA registered pesticides sold in Illinois and coordination of field, laboratory, and office activities relating to pesticide regulation under state laws administered by IDA.

The ICES will have the lead role, pursuant to an Intrastate Service Agreement with the IDA, for the state-wide pesticide applicator certification training program, excluding training in Category 7 and mosquito control. This responsibility includes preparation and administration of training courses, preparation of training materials, and distribution of training manuals. In order to assure program coordination and uniformity in applicator training, certification, and restricted use pesticide applicator certification training programs will coordinate and direct activities with the various cooperating agencies. This will be carried out directly through cooperation with the State Pest Control Planning Committee and the Interstate Agency Committee on Pesticide Use.

Legal authority for the certification program is contained in The Illinois Omnibus Pesticides Act (IL Rev. Stat., Chapter 123, Section 5, Paragraph 87(d) (1) et seq.); Pesticides Control Law (IL Rev. Stat., Chapter 123, Section 5, Paragraph 296 et seq.) and regulations; The Structural Pest Control Act (IL Rev. Stat., Chapter 111 1/2, Paragraph 2201 et seq.); and proposed regulations attached to the plan.

The plan indicates that the State lead agency and cooperating agencies have sufficient qualified personnel and funds necessary to conduct the programs described in the State Plan. Certain EPA funds have been provided to the lead agency to support the certification program. An EPA grant of $322,019 has been awarded to the IDA for this purpose. Additionally, the University of Illinois Cooperative Extension Service has received from EPA pesticide applicator training monies during FY 1976 and FY 1977.

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An estimated 23,000 commercial applicators and 80,000 private applicators will require certification. Wallet size credentials will be issued to pesticide applicators upon successful completion of certification activities. A wallet size credential will contain name, address, and classification of the applicant. For commercial applicators, the credential will also identify the category(ies) or subcategory(ies) of pest control in which the applicant is certified. Credentials issued private applicators unable to read will restrict purchase and use to specific pesticide products for which the applicant has demonstrated competency.

The State lead agency will submit an annual report to EPA not later than March 31 of each year to include the information specified in 40 CFR 171.7. The IDPH will submit specific information on Category 7 certification and enforcement activities to the IDA for inclusion in the annual report.

The IDA plans to continue the commercial applicator categorization scheme previously established under the State Plan. Categories of commercial applicators proposed in the State Plan are as follows:

1. Agricultural Pest Control: (a) Plant (1) Field Crop Pest Control. (2) Vegetable Crop Pest Control. (3) Fruit Crop Pest Control. (4) Industrial, Institutional, Structural, and Health Related Pest Control. (5) Aquatic Pest Control (1972-present). (6) Mosquito control and Grain Facility Pest Control. Subcategory description is for the category "Industrial, Institutional, Structural, and Health Related Pest Control", (7). Two new categories are proposed: (g) Mosquito control and Grain Facility Pest Control. Subcategory description is (1) Institutional and Multi-Unit Residential Housing Pest Control. (h) Public Health Pest Control. (1) Agricultural Pest Control: (a) Insects, Rodents, and Other Pests Including Those Pests in Food Manufacturing, Food Processing, Food Storage and Grain Handling. (2) Termites and Other Wood Destroying Organisms. (3) Bird Control. (4) Fumigation. (5) Food Manufacturing, Food Processing and Food Storage Facilities. (6) Institutional and Multi-Unit Residential Housing Pest Control. (7) Public Health Pest Control. Standards of competency utilized for commercial applicators conform to 40 CFR 171.4 and 171.6. All commercial applicators will be determined competent based upon a written, closed book examination.

The State Plan identifies and describes four classes of commercial applicators. Illinois intends to utilize for certification and licensing purposes. They are (a) Commercial Pesticide Applicator For Hire, (b) Public Pesticide Applicator, (c) Commercial Pesticide Applicator Not For Hire, and (d) Certified Pest Control Technician. The Commercial Pesticide Applicator For Hire certification covers all pest control categories except Category 7, Industrial, Institutional, Structural, and Health Related Pest Control. The State defines such persons as those who operate a pest control business and in so doing, purchase and use or supervise the use of pesticides on the property of another person for hire. Public Pesticide Applicators are employed by state or local governmental agency or other governmental agency who use or supervise the use of restricted use pesticides in any pest control category other than Category 7. The Commercial Pesticide Applicator Not For Hire classification includes commercial applicators who use or supervise the use of restricted use pesticides on their own property or property of their employer but are not Public Pesticide Applicators. Commercial Pesticide Applicators Not For Hire encompass all areas of pest control except Category 7. The Certified Pest Control Technician is a commercial applicator with respect to the amended FIFRA and is engaged in Category 7 pest control activities identified in the State Plan. Certification of this class of commercial applicator is the responsibility of the IDPH. For purposes of this notice, and unless otherwise noted, the term "commercial applicator" shall mean and include the four State defined classes of applicators.

All Certified Pest Control Technicians will be required to either participate in an EPA approved training course or take a written examination at least once every 3 years to ensure that they continue to meet requirements of changing technology and maintain a continuing level of competency and ability to use pesticides safely and properly. All other commercial applicators will be required to renew their certification at 5 year intervals by taking and passing the appropriate written examination.

In accordance with 40 CFR 171.7(c) (3), the State of Illinois has requested that commercial applicators who have passed written examinations in the following pest control categories and subcategories be certified without further examination:

Field Crop Pest Control (1972-present), Ornamental and Turf Pest Control (1972-present), Right-of-Way Pest Control (1972-present), Aquatic Pest Control (1972-present), Mosquito Pest Control (1972-present), Industrial, Institutional, and Structural Pest Control (1972-1977).

The Agency has determined that persons who passed written examinations in the categories and subcategories within the time frame identified above, will have satisfied the requirements for certification, 40 CFR 171.1-171.6, and may be certified without additional examination.

The standards of competency for private applicators are the same as those listed in 40 CFR 171.6 and 171.6. Private applicator certification will be accomplished by one of the following procedures: (1) Successful completion of a training session conducted by the ICES, (2) passage of a written examination,
or (3) special training/oral interview for private applicators unable to read.

1. Successful completion of an ICES training session. An applicant may participate in a training program conducted by County Extension Advisers throughout Illinois. The Illinois Pesticide Applicant Study Guide, and supportive reference material on current pest control methods for specific use situations, will be utilized. During the training session, a representative of the IDA will be present to discuss applicable pesticide laws and regulations, and provide information concerning supervisory requirements of private applicators. Completion of training will be determined on the basis of successful completion of a pre-training and post-training evaluation form administered by an IDA representative. Additionally, each applicant will complete an application for certification, attached to the evaluation form, which assures the IDA that pesticides will be used in a competent, safe manner, in accordance with existing laws and regulations. Evaluation forms and applications for certification will be processed by the IDA.

2. Passage of a written examination. An applicant may take a written examination covering the competency standards listed in 40 CFR 171.5 and 171.6. These examinations will consist of 100 multiple choice questions, each divided into a walk-in basis at local county adviser offices and local IDA offices. The examination may be completed at the applicant's residence as well; however, in this situation, the applicant will be required to attest that the examination was completed without unauthorized assistance. All examinations will be returned to the lead agency in Springfield for grading. A minimum passing grade of 70 percent is required before a private applicator certification is issued.

3. Nonreader certification. For private applicators unable to read, the lead agency issues a certificate of competency and system which allows competent applicators to use specific pesticide products. An applicator who can not read may attend the same training courses available to other applicants. However, the nonreader will be tested orally on the training course material and specific pesticide product labels by an IDA representative. Certification will be limited to these products in which the nonreader has demonstrated competency and the credentials will identify those products covered by the applicator's certification.

To renew a certificate, all private applicators will be required to complete one of the origination certification procedures described above at five year intervals.

Examinations for new categories and subcategories of commercial applicators, the private applicator examination, and existing commercial applicator licensing examinations are attached to the plan.

In view of the need to preserve confidentiality of the completion of the plan, three items have been removed from the public inspection copies of the plan.

The Illinois State Plan applies to the operation of the Government Agency Plan (GAP) by EPA, Illinois will submit a report in accordance with 40 CFR 171.7(c) (4) (1). Illinois has no Indian Governing Body subject to jurisdiction of the United States.

The IDA and IDPH have authority to consider reciprocity with other states and copies of such agreements will be furnished EPA. No recognized formal agreement on reciprocity with other states involving pesticide applicator certification is indicated in the plan.

Other regulatory authorities useful to implementation of the plan include further restriction or limitation on pesticide uses, requirement that pesticide dealers keep and maintain sales records of restricted use pesticides for a period of two years, licensing of commercial and public operators (persons working under the direct supervision of commercial applicators and public applicators, respectively), monitoring, inspection, and sampling activities.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Illinois to the Regional Administrator, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. The comments must be received within 30 days of date of publication of this notice, and should keep the identifying notation (OPP-42565). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 5:30 p.m. Monday through Friday.


GEORGE R. ALEXANDER, Jr.,
Regional Administrator,
Region V.

[FR Doc. 77-23919 Filed 9-30-77; 8:45 am]

5650-01

ENVIRONMENTAL HEALTH ADVISORY COMMITTEE; SCIENCE ADVISORY BOARD

Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held at 9 a.m. on October 19, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

The purpose of the meeting will be (1) to consider a draft document entitled, "Criteria for Evaluating the Mutagenicity of Chemicals"; and (2) to consider a report entitled, "Critique of the Biological and Climatic Effects Research (BACER) - Effects of Stratospheric Modification", prepared by an ad hoc study group of the Science Advisory Board's Ecology Committee and the Environmental Health Advisory Committee, which evaluates the effects of a Federal interagency research program on the biological and climatic effects of stratospheric ozone reduction; and (3) to hear and discuss a report of the Committee's Study Group on Penta-chlorophenol Contaminants which i.e. is examining the potential hazard to humans attributable to registered uses of pentachlorophenol. The Agenda will include (4) brief reports and informational items of current interest to the members.
NOTICES

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Deputy Assistant Administrator for Special Pesticide Programs, Washington, D.C. 20460, by Oct. 12, 1977. Please call Ms. Barbara Robinson on (703) 557-7720.

RICHARD M. DOWD, Staff Director, Science Advisory Board.

SEPTEMBER 26, 1977.

[FR Doc.77-28924 Filed 8-30-77; 8:45 am]

[6560-01]

[FRL 800-3; OPP-20019]

PESTICIDE PROGRAMS

Withdrawal of Denial of Application to Register Pesticide Product Containing Heptachlor

On November 26, 1974, notice of intent to cancel certain uses of heptachlor and chlordane was published in the Federal Register (39 FR 14199) in accordance with section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.). On April 14, 1977, the Environmental Protection Agency (EPA) denied an application received from the Florida Department of Agriculture and Consumer Services to register the pesticide product HEPTACHLOR 5-G (EPA File Symbol 40185-R) for use in controlling the West Indian sugarcane rootstalk borer weevil larvae, Diargrepes abbreviatus. The notice of denial was published April 22, 1977 (42 FR 20850).

This notice of denial was withdrawn by a letter dated May 13, 1977, to the applicant, because the stated basis for issuing that notice was in error; the use of heptachlor for which the application was made was not subject to the provisions of the November 26 Federal Register notice.

The applicant has been advised that certain additional hazard data which were omitted from the application can be submitted, and thereafter the application will be processed and reviewed in accordance with the criteria for determinations of unreasonable adverse effects specified in 40 CFR 162.11 of the EPA registration regulations.

Dated September 27, 1977.

JAMES M. CONLON, Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-28920 Filed 8-30-77; 8:45 am]

[6560-01]

[FRL 800-3; OPP-210010]

PESTICIDE PROGRAMS

Public Hearings on Toxicology Data Auditing Program

The Office of Pesticide Programs (OPP), Environmental Protection Agen-

cy (EPA), has initiated a Toxicology Data Auditing Program (TDAP), which provides for audits of laboratory records and raw data associated with studies and test reports submitted to the Agency in support of applications for pesticide registrations, petitions for the establishment of tolerances for pesticide residues, and experimental uses.

While some pesticide companies have their own laboratories and testing facilities, many companies contract with independent testing laboratories to conduct these tests on their behalf. The reports ultimately submitted to EPA by applicants and petitioners are usually prepared by the independent laboratories, which often retain the raw data and laboratory records underlying these reports in their own archives.

EPA does not currently have jurisdiction to enter independent testing laboratories to inspect these records without the consent of the laboratory. However, because EPA as well as private industry has become aware of the fact that the data and supporting reports are frequently inconsistent as well as inconsistent with the require-ments and tolerances may be inaccurate, incomplete, or otherwise inadequate to support a regulatory decision as to a pesticide's safety, a cooperative effort with the registrants is being initiated with regard to the audit-of-research data currently supporting pesticide registration.

These audits will be designed to: (1) Determine whether the raw data is internally consistent as well as consistent with test reports submitted to EPA by the applicant or registrant; (2) obtain information that may not have been provided in test reports; and (3) identify whether test protocols were followed, whether errors were made or practices employed which may have materially affected the validity of the test results, and whether test reports fully and accurately disclosed all material facts regarding the actual test procedures and results. The scope of such audits will be limited to review of the records pertaining to particular studies and will not extend to overall "good laboratory practice" inspections of the laboratories themselves. The success and effectiveness of this cooperative effort will determine whether legislative changes to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are needed to authorize EPA to enter independent laboratories for the purpose of conducting such audits.

This assessment of the validity and quality of data produced by pesticide-testing institutions by registered pesticide products will eventually be coordinated with the reregistration effort. Data audits will be triggered by data deficiencies identified during the review and validation of the databases for human hazard assessment. It is also expected that after the reregistration effort is complete, the auditing program will concern itself more with recent or on-going studies sponsored by registrants or applicants to assure the continued quality of data.

Responsibility for managing TDAP rests with the Office of Special Pesticide Reviews, which is scheduled to audit records held at 60 laboratories in fiscal year 1978. Hearings are being held at this time to provide an open forum for the presentation of views concerning the merit of conducting such audits as part of a cooperative effort with applicants, registrants, and independent testing laboratories. The hearings will provide an opportunity to discuss such subjects as: (1) The necessity and appropriateness of the cooperative effort as a means of assuring the quality and integrity of data submitted to the Federal government; (2) the elements of the monitoring/audit program; (3) Interagency coordination of audits; (4) international implications of TDAP and (5) record retention.

Both written and oral remarks are solicited. Oral presentations will be limited to thirty (30) minutes. Any person who desires to make an oral presentation at any of the hearings must provide EPA with a written copy of remarks for inclusion in the record. Those who wish to attend the hearings and/or participate in the proceedings are requested to make a reservation in advance of the scheduled time. Hearings coordinators, locations, and dates are as follows:

Location: Travel Lodge at the Wharf, 250 Beach Street, The Golden Gate Room, San Francisco, Calif. 94105.

Date: November 7-8, 1977, 9 a.m.-5 p.m.


Location: Midland Hotel, 172 West Adams, Chicago, Ill. 60603.

Date: November 4, 1977, 9 a.m.-5 p.m.

Hearing Coordinator: Bernadette Bigley, phone: 312-333-2133.

Location: Environmental Protection Agency, 401 M Street SW., Room 3305-3307 of the Wharf, Washington, D.C. 20460.

Date: November 9 and 10, 1977, 9:00 a.m. - 5 p.m.


Written comments should not be submitted to hearing coordinators. Such comments should be addressed to the Federal Insecticide, Fungicide, and Rodenticide Act (PIRA) are needed to authorize EPA to enter independent laboratories for the purpose of conducting such audits.

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NOTICES

[6560-01] [FRL 809-6]

LOUISIANA-PACIFIC CORP. AND CROWN SIMPSON PULP CO.

Requests for Variances From BPCTCA—Final Decision of the Administrator

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision of Administrator.

SUMMARY: On March 17, 1977 the California State Water Resources Control Board adopted orders finding that variances from EPA's BPCTCA effluent limitations guidelines for the Pulp, Paper and Paperboard Point Source Category (40 CFR Part 436) would be appropriate for the Louisiana-Pacific Corporation (NPDES NO. CA 0005804) and the Crown Simpson Pulp Company (NPDES NO. CA 0005802). In essence, the State Board found that the two pulp and paper mills in question discharge their wastewaters to the Pacific Ocean and that treatment of these discharges to the degree required by applicable regulations would result in little (if any) water quality improvement while at the same time creating non-water quality environmental impacts. Variance regulations, known as best practicable control technology currently available (BPCTCA) effluent limitation guidelines, contain a variance provision which provides that upon a finding that one or more factors pertaining to a particular discharger are fundamentally different from the factors considered by EPA in establishing the BPCTCA regulations, alternative requirements may be established for that discharger. The Administrator must approve any such variance. On March 29, 1977 the State Board forwarded its orders to EPA and requested the Administrator's approval of variances for the two mills. The State Board orders also adopted discharge requirements for the two mills which would be applied if the variance requests were approved. These requirements are substantially less stringent than the requirements based upon the national standards.

In Appalachian Power Co. v. Train, 431 U.S. 113 (1977), Southern California Edison Co., East Bay Utility District, and the National Wildlife Federation. All comments were carefully considered prior to issuance of the Administrator's Decision and responses to major comments are included in the decision.

The Decision of the Administrator denies the variances requests. The Federal Water Pollution Control Act forbids consideration of the nature or quality of particular receiving waters in adopting BPCTCA effluent limitations guidelines and in applying them to individual point sources. Under the Act water quality standards may require a discharger to meet more stringent requirements than BPCTCA, but water quality considerations may not be the basis for less stringent requirements. BPCTCA effluent limitations are nationally uniform technology based regulations which are to be met by all point sources of pollution within the breached krait sector of the pulp, paper and paperboard category by July 1, 1977 pursuant to sections 301(b) 1(A) and 304(b) 1 of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500). Each of these regulations, known as best practicable control technology currently available (BPCTCA) effluent limitation guidelines, contain a variance provision which provides that upon a finding that one or more factors pertaining to a particular discharger are fundamentally different from the factors considered by EPA in establishing the BPCTCA regulations, alternative requirements may be established for that discharger. The Administrator must approve any such variance. On March 29, 1977 the State Board forwarded its orders to EPA and requested the Administrator's approval of variances for the two mills. The State Board orders also adopted discharge requirements for the two mills which would be applied if the variance requests were approved. These requirements are substantially less stringent than the requirements based upon the national standards.

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NOTICE.—This notice was not published in the Federal Register.

[6712-01] [FR Doc.97-19208 Filed 9-30-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

WALTER R. HICHEMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-29013 Filed 9-30-77;8:45 am]

[6730-01] [FR Doc.77-29013 Filed 9-30-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Document No. 77-47]

Order to Show Cause

FAR EAST CONFERENCE AMENDED TARIFF RULE REGARDING THE ASSESSMENT OF WHARFAGE AND OTHER ACCESSORIAL CHARGES

The Far East Conference (FEC), operating under Agreement No. 17, as amended, is a conference of common carriers providing line service from the United States Atlantic and Gulf ports to ports in the Far East.

On May 24, 1977, the FEC filed an amendment (Rule 1(a) 1) to its Tariff FMC No. 10) modifying its tariff rules to provide that wharfage and other charges which are assessed by the terminal operators against the vessel will be rebilled by the carrier for the account of the consignee. This tariff amendment, originally scheduled to become effective on August 23, 1977, was subsequently postponed until October 1, 1977.
Wharfage charges are assessed against the vessel at the majority of the North and South Atlantic ports. The carriers presently absorb the costs of wharfage at these ports except at New York where no charge called "wharfage" exists. The basic freight rates charged by the conference carriers are the same at all the involved ports.

The assessment of different wharfage charges at each port (except New York), and the absence of any such charge at New York results in the assessment of varying rates at wharfage and handling charges prescribed by its tariff rule relating to the assessment of wharfage and other charges. The members of the Merchant Marine Act of 1936, provides that it shall be unlawful for:

- any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any such carrier from serving any port designated for the accommodation of ocean-going vessels located on any important foreign port authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at which it may be the nearest port already regularly served by it.

Conference tariff modifications which in effect result in varying costs at ports in the U.S. Atlantic and Gulf range have been found to contravene section 205 of the Merchant Marine Act, 1936. Associated Latin American Freight Conferences and the Association of West Coast Steamship Companies, Amended Tariff Rules Regarding Wharfage and Handling Charges, 15 F.M.C. 151 (1972). In that procedure, the Commission concluded that section 205 removes from the Commission's jurisdiction all authority to approve under section 15 of the Shipping Act, 1916 any activity proscribed by section 205 and requested the Commission to disapprove such activity.

The members of F.E.C. have treated the assessment of wharfage differently at the ports on the U.S. Atlantic and Gulf range in the past and the proposed tariff modifications represent a drastic change affecting numerous parties in the shipping community. By assessing varying rates and charges among federally improved continental U.S. ports, the F.E.C.'s actions appear to contravene section 205 of the Merchant Marine Act, 1936, and to be contrary to the public interest in violation of section 15, Shipping Act, 1916. In addition, it is possible that F.E.C.'s proposed rule would give an undue preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to undue or unreasonable prejudice or disadvantage in violation of section 16, Shipping Act, 1916. Such a result would be contrary to the public interest in violation of section 17, Shipping Act, 1916.

It appears that a proceeding is necessary to permit F.E.C. to show cause why the proposed rule relating to the assessment of wharfage and other charges prescribed by its tariff rule herein at issue should not be cancelled and stricken from its tariff as being in violation of the aforementioned statutes.

Now, therefore, it is ordered, That pursuant to sections 15, 16, First, 17 and 22 of the Shipping Act, 1916, the Far East Conference and its members lines as listed in Appendix "A" be named respondents in this proceeding and that such respondents be ordered to show cause why the Commission should not find that the proposed tariff rule relating to the assessment of wharfage to be contrary to the public interest in violation of section 15; to result in the giving of an undue or unreasonable preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to unreasonable prejudice or disadvantage in violation of section 16, First; to result in the assessment of varying rates and charges which are unjustly discriminatory and constitute an unreasonable preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to unreasonable prejudice or disadvantage in violation of section 17; and to be in contravention of section 205, Merchant Marine Act, 1936; and, accordingly, why the proposed rule should not be ordered to modify its tariff rules to correct such violations.

It is further ordered, That this proceeding be limited to submission of affidavits of fact and memoranda of law, and replies thereto. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove these facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 25, 1977. Affidavits of fact and memoranda of law shall be filed with the respondents and served upon all parties no later than the close of business October 28, 1977. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and served upon the respondents, if any, no later than the close of business November 18, 1977.

It is further ordered, That a notice of this order be published in the Federal Register and that a copy thereof be served upon the respondents.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than the close of business October 14, 1977.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies, as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY, Secretary.
NOTICES

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:
Mr. William E. Daty, Assistant Attorney General, State of Indiana, 219 State House, Indianapolis, Ind. 46204.

Agreement No. T-3811, between Indiana Port Commission and Mid-Continent Coal & Coke Co. (Mid-Continent), provides for the renewable five-year lease of approximately 7.7 acres of land. The premises will be used in the installation and operation of a coke screening and processing facility and the transportation of the material. As compensation, Mid-Continent will pay, as ground rental, $3,154 per acre per annum, plus annual administrative and maintenance fees of $3,360. Mid-Continent will pay tariff charges and guarantee a minimum annual charge as set forth in the agreement.

By order of the Federal Maritime Commission.


FRANCIS C. HURNEY, Secretary.

[FR Doc.77-2904 Filed 9-30-77;7:8:45 am]

[6730-01 ]

PORT AUTHORITY OF GUAM AND UNITED STATES LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 714).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, or on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the facts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:
Peter F. Wilson, Senior Counsel, Matson Navigation Co., P.O. Box 3033, San Francisco, Calif.

Agreement No. 10315 would authorize Matson Navigation Co. (Matson) to deliver tandem axle semi-trailers to Saipan Stevedore Company on the pier alongside Matson's transporting ocean vessel at Saipan, Northern Mariana Islands in order that Saipan Stevedore Company can use the trailers or permit the trailers to be used by others to haul Matson's containers in Saipan in accordance with the terms and conditions set forth in the agreement.

By order of the Federal Maritime Commission.


FRANCIS C. HURNEY, Secretary.

[FR Doc.77-2904 Filed 9-30-77;7:8:45 am]

[6740-02 ]

FEDERAL POWER COMMISSION

Order Denying in Part and Granting in Part Motions for Reconsideration and Establishing Procedures

September 26, 1977.

On July 21, 1977, Arizona Public Service Co. (Company) submitted for filing a petition for proposed increased rates and charges for jurisdictional sales to seven of its customers. By order issued August 1, 1977, the Commission accepted the filing and suspended the effectiveness of the proposed rates and charges for 5 months, after which they are to become effective subject to refund.

On August 2, 1977, Maricopa County Municipal Water Conservation District No. 1 (Maricopa) filed a petition to the Company to issue a Notice of Intervenion to Maricopa was issued on August 19, 1977. On August 17, 1977, Maricopa filed a Protest and Motion for Reconsideration of the August 1 order. The Company filed an Answer to Maricopa's Motion for Reconsideration on September 2, 1977. The other six jurisdictional customers (5 customers) subject to the Company's filing filed for filing a Protest and Motion for Reconsideration of the August 1 order on August 30, 1977.

The Company filed an Answer to Maricopa's Motion for Reconsideration on September 2, 1977. The other six jurisdictional customers (5 customers) subject to the Company's filing filed for filing a Protest and Motion for Reconsideration of the August 1 order on August 30, 1977.

The Company filed an Answer to Maricopa's Motion for Reconsideration on September 2, 1977. The other six jurisdictional customers (5 customers) subject to the Company's filing filed for filing a Protest and Motion for Reconsideration of the August 1 order on August 30, 1977.
The Motion of the 6 customers also asserts that the contract between the Company and Buckeye Water Conservation District No. 1 (Buckeye) contains the same clause which caused the Commission to require prospective application of rates only to the four customers in Docket No. ER76-530. A review by the Commission of all the contracts reveals that the contracts between the Company and Buckeye, and between the Company and Electrical District No. 7 contain the pertinent contract section, language which is substantially the same as that of the four customers. Therefore, we shall revise our August 1 order to delay the suspension period for all customers except for Electrical District No. 1 and to prohibit the effectiveness of their proposed rates until just and reasonable rates are approved by the Commission after investigation under Section 206 of the Federal Power Act.

The Motion of the 6 customers additionally states that it incorporates by reference the protests and motion for reconsideration of Maricopa. To the extent that the Maricopa Motion and arguments raised therein are part of the Maricopa Motion or the Maricopa Motion for reconsideration is denied.

The Commission finds: (1) Good cause does not exist to grant Maricopa's Motion for Reconsideration of the August 1, 1977 order.

(2) Good cause exists to grant in part and to deny in part the Motion for Reconsideration of Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District and Buckeye Water Conservation and Drainage District.

(3) Good cause exists to set an initial conference date in this docket.

The Commission orders: (A) The Motion of Maricopa for Reconsideration of the August 1, 1977 order.

(B) The Motion for Reconsideration of Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District and Buckeye Water Conservation and Drainage District is hereby granted in part and denied in part.

(C) The February 1, 1978 effective date as set forth in the August 1, 1977 order in this docket is hereby withdrawn as to all customers except Electrical District No. 1. The rates proposed by the Company shall not become effective pending final Commission determination of the just and reasonable rate level, with the exception of those rates applicable to Electrical District No. 1, which shall become effective February 1, 1978, subject to refund.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 23, 1977.

(E) A Presiding Administrative Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on December 2, 1977, at 10 a.m. (ET) in the hearing room of the Federal Power Commission, 825 North Capitol Street N.W., Washington, D.C. 20426. The Law Judge is authorized to establish procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMB,
Secretary.
produced formation. Petitioners set a bridge plug at 8690 feet and reperforated the well from 8645 feet to 8772 feet, being in the Upper Siphonion Davis “B” Sand. Although problems developed and the well has not yet been recompleted, Petitioners believe that with additional work and expenditures, commercial gas production can be obtained from said new perforations in said No. 1 Well. Accordingly, Petitioners desire to re-enter the No. 1 Well and attempt to complete same as a producer of gas from the new perforations in the Upper Siphonion Davis “B” Sand.

Production from the Shaw “A” lease is dedicated to a December 9, 1959 gas purchase contract between Cities Service and Southern Natural Gas Company (Southern Natural) which provides for a price of approximately 30.00 cents per Mcf. By letter agreement dated December 2, 1976, Southern Natural has agreed to pay Petitioners whatever rate this price exceeds 25.00 cents per Mcf. Letter agreement dated December 2, 1976, between Southern Natural and the Eastern Shore Natural Gas Company (ESNGC) provides for a price of $1.70 per MCF. By letter agreement dated December 2, 1976, ESNGC has agreed to pay Petitioners whatever rate this price exceeds $1.50 per MCF.

Petitioners are of the opinion that they are entitled, pursuant to the provisions of Opinion No. 770-A, to a rate of 150% of 52 cents per Mcf, exclusive of production, severance or similar taxes, and subject to the adjustments and escalations provided in that opinion. Therefore, Petitioners request that the Commission issue a declaratory order stating that the gas reserves produced from the Upper Siphonion Davis “B” Sand in the Shaw “A” No. 1 Well (a) were not acquired by the purchase of developed reserves in place from a large producer, (b) are the result of a completion operation into a different formerly nonproductive reservoir, (c) commenced after January 1, 1973, and (e) are small producer reserves developed by a natural gas company while in the status of a smaller producer.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 12, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing thereon, must file a petition to intervene in accordance with the Commission’s Rules.

KENNETH F. PLUMS,
Secretary.
[FR Doc.77-26966 Filed 9-30-73; 8:45 am]

[6740-02] [Docket No. ES77-69]
CENTRAL TELEPHONE & UTILITIES CORP.
Notice of Application for Authority To issue Securities
Take notice that on September 13, 1977, Central Telephone & Utilities Corp. (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking authority to extend to not later than December 31, 1980, the final maturity date of short-term unsecured promissory notes to be authorized to be issued not later than December 31, 1978, in an aggregate principal amount at any one time outstanding of $55,000,000.

Applicant is incorporated under the laws of the State of Kansas, with its principal business office in Chicago, Ill. It is engaged in electric utility operations in the southeastern part of Colorado and the central and western portions of the State of Kansas.

The proceeds from the issuance of short-term notes are to provide temporary funds for the construction, completion, extension or improvement of facilities of Applicant and for advances to and investment in subsidiaries of Applicant to be used for the construction and improvement of facilities of such subsidiaries pending permanent financing. The estimated construction programs for the above purposes for 1978, 1979, and 1980 are $175,000,000, $187,000,000, and $173,000,000, respectively.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMS,
Secretary.
[FR Doc.77-28967 Filed 9-30-77; 8:45 am]

[6740-02] [Docket No. ER77-589]
DUKE POWER CO.
Notice of Supplement to Electric Power Contract
SEPTEMBER 26, 1977.
Take notice that Duke Power Co. (Duke Power) tendered for filing on September 19, 1977, a supplement to the Company’s Electric Power Contract with Blue Ridge Electric Membership Corp. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. Rate Schedule FPC No. 131.

Duke Power further states that the Company’s contract supplement, made at the request of the customer, provides for increases in the designated KW at Delivery Points Nos. 2, 3 and 4. Duke Power indicates that these increases are from 8,800 to 12,000, from 11,000 to 15,000 and from 50,000 to 110,000 kilowatts, respectively. Duke Power further indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve month immediately succeeding the effective date. Duke Power proposes an effective date of October 19, 1977.

Duke Power indicates that a copy of this filing was mailed to Blue Ridge Electric Membership Corp. and the North Carolina Utilities Commission. Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Power Commission, 225 North Capital Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission’s Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 3, 1977. Protests will be considered by the Commissioner in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMS,
Secretary.
[FR Doc.77-23967 Filed 9-30-77; 8:45 am]

[6740-02] [Docket No. RP77-17]
EASTERN SHORE NATURAL GAS CO.
Notice of Filing of Revised Tariff Sheets
Take notice that on September 15, 1977, Eastern Shore Natural Gas Co.
NOTICES

(Eastern Shore) tendered for filing revised tariff sheets which Eastern Shore states will provide: (1) for crediting the jurisdictional portion of demand-charge credits in accordance with a settlement agreement in its rate case in Docket No. RP77-17, and (2) for the addition of an unrecovered purchased gas cost account to the purchased gas cost adjustment clause of its PFC Gas Tariff.

Eastern Shore states that copies of these tariff sheets have been mailed to its jurisdictional customers and interested state commissions.

Any party desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.6 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.6, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not be served to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene with the Commission, in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28659 Filed 9-30-77; 8:45 am]

[6740-02 ]

[Project No. 2640]

FLAMBEAU PAPER CO. AND CAPITOL CITIES MEDIA, INC.

Notice of Application for Transfer of License


Public notice is hereby given that an application was filed on July 25, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a--825r, by Flambeau Paper Co. and Capitol Cities Media, Inc. (Correspondence to: Norman C. Hoeserle, President, Flambeau Paper Co., Park Falls, Wis. 54553; and Danny R. Carpenter, Esq., Well & Partners, 1500 Home Savings Building, 1006 Grand Avenue, Kansas City, Mo. 64106) for transfer of license for the Upper Hydro-Electric Project No. 2640 located on the North Fork of the Flambeau River in the City of Park Falls, Price County, Wis. The Flambeau Paper Co. merged into Capitol Cities Media, Inc. which is the surviving entity. The Flambeau Paper Co. proposes to transfer its license for Project No. 2640 to Capitol Cities Media, Inc.

The Upper Hydro-Electric Project consists of:

1. A 1,500-foot long power canal; (6) three short, open reinforced concrete flumes with steel headgates; (7) a powerhouse containing three 650 horsepower turbines and two 450 KW generators (one turbine is not in use); and (8) apparatus facilities.

Any person desiring to be heard or to make any protest with reference to said application should file same on or before November 7, 1977, with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party in any hearing then must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28660 Filed 9-30-77; 8:45 am]

[6740-02 ]

[Project No. 2640]

ILLINOIS POWER CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Proceeding for Hearing and Establishing Procedures


On July 29, 1977, Illinois Power Co. (Illinois) tendered for filing a proposed rate increase of $176,479 (32%) for a 12 month test period ending on September 30, 1978. The proposed increase is applicable to the Village of Ladd, the City of Oglesby and Cedar Point Light and Water Co. (Municipalities), all located in Illinois. The designation of the rate schedules is set forth in the Appendix to this order. Illinois requests an effective date of October 1, 1977, and is not of the type of resource rate increases which Eastern Shore states that copies of these tariff sheets have been mailed to its jurisdictional customers and interested state commissions.

Any party desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.6 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.6, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28659 Filed 9-30-77; 8:45 am]

On September 9, 1977, the Municipalities filed a joint document, moving to reject, summarily dispose and protest Illinois' filing, and requesting leave to intervene. Since the Municipalities have substantial interests which may be affected by the subject matter of this proceeding, the Commission will permit intervention.

In support of its combined motions, the Municipalities argue that:

1. Illinois' unilateral rate increase to the Village of Ladd is precluded by the contract provisions falling within the Sierra-Mobile doctrine.

2. Illinois' demand allocation method, rate of return and assignment of 69 KV lines should be summarily rejected based on the Commission's August 1, 1977, Opinion No. 816 in Docket No. E-6620. The rate increase to the City of Oglesby and Cedar Point Light and Water Co. would be discriminatory since these two customers will be served at higher rates than other customers of the same class.

3. The allocation of rate case expense is improper.

4. The filing should be summarily rejected since the terms and conditions of service are anti-competitive.

The argument that the Village of Ladd's contract with Illinois protects it from the company's unilateral rate filing, is unpersuasive. The Commission decided by order issued May 7, 1976, in Docket No. E-6620, that the contract with Ladd is not of the Sierra-Mobile fixed rate variety. The Village of Ladd has not presented any arguments that require any modification of that prior determination.

The Municipalities request the Commission to require Illinois to amend its filing to conform to the Commission's determination on three issues in its Opinion No. 816, i.e., demand allocation, rate of return and assignment of 69 KV lines. Our decision in Opinion No. 816 was issued on August 1, 1977, and was based on a 1974 test period. Petitions for rehearing of that Opinion have been filed and are presently pending. The instant filing was tendered July 29, 1977, three days before the issuance of Opinion No. 816 and was based on a test period ending September 30, 1978. Therefore, since the facts underlying these three issues may differ sufficiently to warrant different determinations, we are precluded from summarily disposing of these three issues in the instant proceeding. However, since the merits of these issues have recently been litigated and decided by us in Opinion No. 816, we shall consider our opinion there controlling on these issues and, if Illinois elects to pursue its position on those issues, it shall have the burden of showing significant new facts or changed circumstances that warrant modification of those decisions. Illinois may, however, determine that the facts and circumstances do not warrant


Illinois' previous rate increase was allowed to become effective, subject to refund, on January 1, 1976, in Docket No. E-6620. On August 1, 1976, the Commission issued its Opinion No. 816 in Docket No. E-6620.


2 The Village of Ladd has sought review of this order in City of Oglesby et al. v. F.P.O., CADC No. 76-1058.
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Wholesale Electric Service for Resale
Designation Other party
Supplement No. 4 to Village of Ladd.
Rate Schedule D. 816. 28 (Sup-
premised Supplement
No. 3).

[6740-02 ]

[Doc no. ER77-411, 412, 413, 414, 415, and ER77-23, 24, 25, 26, 27, 29]

ILLINOIS POWER CO.


On October 20, 1976, the Illinois Power Co. (Company) tendered for filing proposed Modification No. 2 to its Interconnection Agreements with the city of Mascoutah (ER77-22), the cities of Breezy and Carlyle (ER77-24), the village of Freeburg (ER77-25), and the city of Highland (ER77-26). The Company filed identical proposed amendments to the Interconnection Agreements with the city of Peru (ER77-28) and the city of Princeton (ER77-29) on October 22, 1976. The proposed Modification No. 2 provided for an increase in the demand charges for short-term firm and maintenance power transactions. The Company requested an effective date of November 20, 1976 for all six dockets.

On November 6, 1976, Illinois Power Co.'s filings were issued on November 1, 1976, with all protests and petitions to intervene due on or before November 15, 1976. On November 11, 1976, the municipal officials of Mascoutah, Breezy, Carlyle, Freeburg, Highland, Waterloo, Peru, and Princeton (Cities) filed in one pleading, a petition to intervene, motion for consolidation, and motion to reject. In support of the motion to reject, municipal officials alleged that Illinois Power Co.'s filing did not comply with the Federal Power Commission's regulations under section 35.13(b) (4) (ii).

By order issued November 19, 1976, we accepted the proposed Modification, suspended it for one day, and established procedures. We denied the Cities' motion to reject the filing.

On June 30, 1977, the Company tendered for filing proposed increases in its demand charges for short-term firm capacity and for Maintenance Power.
Capacity for service to the same seven municipals.¹ The filing was initially submitted on May 31, 1977, but was found to be deficient in its omission to notify its State commission. This deficiency was corrected on June 30, 1977. This filing would increase the Company's revenues for this service by $151,143 or 16.67 percent based on the 12-month period ending April 30, 1977.

Public notice of Illinois' filings was given with all protests and petitions to intervene due on or before August 1, 1977. By order issued July 26, 1977, we accepted the filing, waived the notice requirements, and suspended it for one day. The increase became effective July 2, 1977, subject to refund.

On August 1, 1977, the Illinois Municipalities of Highland Mascoultah, Freeburg, Princeton, Peru, Breese, and Carlyle tendered for filing a Petition for Reconsideration of Rehearing, Motion to Reject, Motion to Intervene, Motion to Consolidate. The Cities state that they are customers of the Company and are served under the Interconnection Agreements that are the subject of these proceedings. They allege that they have a direct interest in these proceedings which cannot adequately be protected by any other party.

On August 16, 1977, Illinois Power filed an answer to the Cities' filings. The Company states that it does not oppose consolidation, but the filing argues against Cities' Motion to Reject and answers Cities' Complaint.

The Cities replied to the Company's Answer on August 29, 1977. In their reply, the Cities reiterate their argument and respond to certain statements made by the Company in its answer. By order issued August 31, 1977, we granted the Cities' motions for intervention and reconsideration. Reconsideration granted was for the limited purpose of further consideration in light of the complex arguments raised by the parties' pleadings. We address these arguments now.

The Cities request that we reconsider our order waiving notice requirements and allowing the increased rates to become effective subject to refund on July 2, 1977. They base their request upon the Company's failure to submit cost of service data. We waive the case-in-chief requirement in that the proposed rates have been previously accepted for filing by Illinois Power customers receiving similar service and the cost support filed by Illinois Power was sufficient for the Commission's initial determination as to whether the filing should be accepted or suspended. Of course, Illinois Power will have the burden of proof in the hearing to justify its proposed increase and will be required to submit the case-in-chief upon which it is going to rely to support the increase. Cities' Motion to Consolidate was denied by the suspension order of July 26, 1977, presents no new facts or principles of law that were not considered by the Commission when it issued that order or now having been considered change or modification of said order.

Cities further argues that the Company's filing must be rejected as violative of the Mobile-Sierra doctrine. The Cities contend that the overcharge is based on the cost of the entire mix of the generation utilized in scheduling the firm power deliveries to the Cities. The pertinent contract provision reads as follows:

"The rates and charges provided for by this Agreement shall be reviewed at least annually by the parties and shall be revised if such review reveals that rates, charges, or conditions are not consistent with the then prevailing costs, practices, or other pertinent factors. Each party shall take action to implement the results of such review. If a party shall fail in good faith to participate in such review, the other party may unilaterally take action with respect to any of such matters before any regulatory authority having jurisdiction with respect thereto. In such event the rates, charges and conditions shall be those provided for in this Agreement as modified or otherwise authorized by such regulatory authority. (Article X, Section 4.)"

Upon careful reconsideration of the relevant contractual language and the arguments of the parties, we conclude that section 205 rate increase filings were not contemplated by the parties and, so, are impermissible. We are aware that the Commission has in the past permitted section 205 filings by the Company, but in both instances the contract interpretation issue was not clearly raised. Upon reflection we are now persuaded that the correct result—the one required by the intent of the parties—is to preclude any rate increase until after a section 205 proceeding.

This result is compelled by an analysis of the last sentence of section 4. When it is read in conjunction with the other language, its proper interpretation becomes evident. Moreover, the language "as modified or otherwise authorized by such regulatory authority" is comparable to the language recently interpreted by the Commission in Kansas Power & Light Company, Docket No. ER78-39. In that case, as Cities point out, the Commission interpreted similar language to preclude a section 206 proceeding.

"Section 4 as a whole reveals the parties' intention that rate changes should ideally be the product of mutual discussion and agreement. However, in the event that their differing positions do not result in agreement, the contract permits either party to place the entire rate change issue before the Commission for resolution. In speaking of "such event", the last sentence of section 4, the parties are referring to the possibility that their discussions would not result in agreement. In that event, they intended that any new rate, charge or condition could only be that which the Commission specifically authorized following its consideration of the issues. The language of the last sentence of section 4 is in our view unmistakably prospective. It assures the parties, in the event agreement has not been reached, that there will be no chance until after they have had an opportunity to express their differing views to the Commission and the Commission has made its final determination in the matter."
NOTICES

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The Commission orders: (A) The Cities' Motion for Reconsideration is hereby denied.

(B) The Company's rate filing pursuant to section 205 of the Federal Power Act is hereby rejected.

(C) For the purpose of hearing only.

The Company's request for a separate investigation and declaratory order is denied.

The Cities' Motion for a separate investigation and declaratory order is hereby denied.

The Cities' Motion to establish a separate rate proceeding heretofore initiated under the Federal Power Act and to terminate the proceeding is hereby denied.

The Cities further allege that the short-term energy cost billed to them is more than the energy cost billed to wholesale customers under Illinois Power's wholesale Service Classification 40. The Cities also claim that because they elected not to use the service schedules contained in the Interconnection and Interchange Agreement, the reservation charges paid by them to the Company on those occasions should be refunded to them. The Company in its answer disagrees with each of these allegations.

The Company requests that the Complaint for investigation and declaratory order to determine alleged overcharges for short-term energy under interconnection agreements either be dismissed or, alternatively, assigned a separate docket number and considered in a separate proceeding.

The issues raised by Cities' Complaint should be addressed during the course of the hearing in this proceeding. We are setting those issues for review under sections 205 and 206 of the Federal Power Act. Cities' request for a separate investigation and declaratory order is denied.

Finally, since there are similar questions of law and fact in all of the captioned dockets, public interest requires that these dockets be consolidated for purposes of hearing but not for the purposes of decision.

(1) Good cause does not exist to grant the Cities' Motion for reconsideration.

(2) Good cause exists to reject the Company's filing under section 205 of the Federal Power Act and to terminate the proceeding hereinafter initiated under that section of the Act, as hereinafter ordered.

(3) Good cause has been shown to accept the Company's filing of June 30, 1977 under section 206 of the Federal Power Act.

(4) Good cause exists to institute an investigation under section 206 of the Act to determine just and reasonable rates to be charged to the Cities.

(5) Good cause does exist to address during the hearing those issues raised in the Cities' Complaint pursuant to sections 203 and 206 of the Federal Power Act.

(6) Good cause does not exist to grant the Cities' request for a separate investigation and declaratory order.

(7) Good cause exists to consolidate the above captioned dockets for purposes of hearing only.

The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

KENETH F. PLUMER, Secretary.

[Doc No. 207-2226 Filed 6-30-77; 8:45 am]

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[6740-02]

NORTHERN STATES POWER CO.

Notice of Interconnection and Interchange Agreement

September 26, 1977.

Take notice that Northern States Power Company (NSPC), on September 16, 1977, tendered for filing an Interconnection and Interchange Agreement, dated September 16, 1977, with the City of Medina, Minn.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission’s notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to become a party to the proceeding is hereby advised to file a petition to intervene or protest with the Federal Power Commission, 255 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission’s rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve as make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENETH F. PLUMER, Secretary.

[Doc No. ER77-603]

PACIFIC GAS AND ELECTRIC CO.

Notice of Further Extension of Time

September 26, 1977.

On August 19, 1977, the Secretary of the Interior filed a motion for reschedu-
By its order of January 14, 1974, in Docket No. RP71--119 (51 FPC 2590), the Commission granted Petitioner's request for temporary relief pending a decision on the merits of the petition for extraordinary relief. On August 31, 1976, the Commission issued an order dismissing the petition for extraordinary relief as moot and ordering Petitioner to pay back temporary relief volumes. Petitioner asserts that the petition for extraordinary relief was dismissed as moot, because the interruptible nature of Petitioner's supply contract was afforded a higher priority by Opinion No. 754, issued on February 27, 1973. Opinion No. 754 abolished the distinction between firm and interruptible contracts in assigning service priorities on the Panhandle system.

In support of its request for relief with respect to payback, Petitioner cites the Opinion of the United States Court of Appeals for the Third Circuit in Hercules, Inc. v. FPC, 553 F. 2d 74 (3rd Cir. 1977). In that case, Petitioner, the court set aside the payback requirement that had been imposed on Hercules, Inc., by the Commission. The requirement was set aside because it was the distinction between firm and interruptible contracts and this distinction had been eliminated by Opinion No. 754. Petitioner also cites two Commission orders issued on March 5, 1974, and March 30, 1974, to which it did not grant a rehearing to Hercules, Inc., in Docket Nos. RP71--119 and RP74--31--22, says Petitioner, the Commission declared that petitioners who received extraordinary relief under Order No. 467-B would not be required to pay back gas. Moreover, in another order on that date granting a rehearing to Hercules, Inc., in Docket Nos. RP71--119, et al., the Commission, according to Petitioner, relieved other petitioners of their payback obligations for any emergency gas received while the plan of Order No. 467-B was in effect.

Petitioner asserts that it received extraordinary relief under the curtailment plan of Order 467-B in the same manner as petitioners subject to the Commission's orders of March 8, 1977, and that these orders should therefore relieve Petitioner of its payback obligations. Accordingly, Petitioner requests that the Commission: (1) Order that Petitioner's payback obligations be suspended and direct Panhandle to increase delivery to Petitioner in an amount sufficient to compensate for those volumes subject to the improper payback order; (2) order that Petitioner receive the amount of natural gas from Panhandle as is in Petitioner's contract with Panhandle, "subject to the provisions of the revised 754 interim curtailment plan," without reduction; and (3) grant such other relief as is appropriate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.5 or 1.10). The notice and petitions for intervention previously filed in Docket No. RP71--119 will not operate to make those parties interveners or protestants with respect to the instant petitions. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing thereto must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

Notices

[6740--02]

PANHANDLE EASTERN PIPELINE CO.
Notice of Petition for Relief

Take Notice that on September 2, 1977, Quanex Corporation (Petitioner), formerly known in this proceeding as Michigan Seamless Tube Company, filed a petition for relief from the Commission's order of August 31, 1976, dismissing its petition for extraordinary relief and ordering payback. It seeks a reversal of the payback order, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner indicates that it uses natural gas in the manufacture of cold-drawn seamless steel tubing at its Michigan Seamless Tube Division. Accordingly to Petitioner, policy guidelines issued by the Commission on March 2, 1973, in Commission Order 467--B, Docket No. R--467 (49 FPC 669) (49 FPC 553) would on September 2, 1977, to August 1, 1974, and 679 Mcf per day thereafter. In addition, Petitioner filed a request for temporary emergency relief on December 28, 1973.
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In order to insure the orderly administration and review of the refunds to be made pursuant to this order, we shall require that all refunds made by working interest owners whose gas was sold under the rate schedule of another producer be coordinated with and reported by the producer under whose rate schedule the sale was made.

Once the refunds have been disbursed to the respective purchasers, the purchasers shall flow the refunds through to their jurisdictional customers; provided, however, that purchasers shall not be required to flow-through these refunds, if any, to which they may assert a claim of entitlement under terms of prior rate settlement agreements approved by the Commission.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the refunds subject to this order be disbursed and flowed-through hereafter on a timely basis.

The Commission orders: (A) On or before October 31, 1977, each producer who elected to discharge its refund obligations under Commission Opinion No. 598, may elect to discharge its refund obligation through credits to jurisdictional sales, indicating for each rate schedule and each jurisdictional customer the amount payable to each jurisdictional customer. The producers shall flow the refunds through the jurisdictional sales, indicating the amount payable to each jurisdictional customer.

(B) All refunds and reports made pursuant to Ordering Paragraph (A) above shall be coordinated with and reported by the producer under whose rate schedule the sale was made.

(C) On or before November 23, 1977, each producer shall submit three copies of a plan for the flow-through of the refunds ordered to be disbursed by Southern Louisiana producers and presently being retained by the producer, applicable to jurisdictional sales, indicating the amount payable to each jurisdictional customer and upon interest owners whose gas was sold under the rate schedule of another producer.

(D) Upon notification by the Secretary, and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977

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motion filed August 23, 1977, is hereby denied.

By Direction of the Commissioner.

KENNETH F. PLUMI, Secretary.

[FR Doc. 77-28970 Filed 9-30-77; 4:45 am]

[6740-02 ]

[DOCKET No. FERC-7-532]

PUGET SOUND POWER AND LIGHT CO.

Order Granting in Part Motion for Reconsideration


On August 1, 1977, the Commission issued an order in this docket which accepted for filing the application of Puget Sound Power and Light Company (PSPL) for rate increases to eleven of its wholesale customers.1 In that order, we suspend the proposed rate increases until March 1, 1978, where they are to become effective subject to refund.

On August 31, 1977, PSPL filed an “Application for Rehearing” of the August 1, 1977 order. Since the order is interlocutory, no application for rehearing is permitted.2 However, the Commission will treat the application as a Motion For Reconsideration of the order.

Applicant requests that we reduce the five month suspension imposed in this docket, asserting that the order of August 1, 1977 is unlawful, discriminatory, arbitrary and an abuse of discretion. It is PSPL’s contention that the maximum suspension period has been imposed “only when large amounts were involved, where a problem is apparent from the face of the application or where the application is consolidated with an application for a large rate increase.”

In its July 22, 1977, filing, PSPL proposed to raise its rates, increasing revenues by $381,045, or 64 percent, based on the 1972-1973 year. On August 1, 1977, our preliminary review indicated that the proposed increase in rates was not shown to be just, and we suspended accordingly.

It is well established that decisions regarding the necessity and length of rate increase suspensions lie within the sound discretion of the Federal Power Commission. Municipal Light Boards v. FPC, 450 F.2d 1349-1352 (D.C. Cir. 1971), cert. denied, 486 U.S. 989 (1972). The Commission’s discretionary decision to suspend is based on a number of factors, including inter alia, the possibly excessive nature of the proposed rate increase, the financial condition of the utility, the financial impact on the wholesale customers and the percentage of a utility’s overall revenues derived from wholesale customer accounts. These same factors are appropriate considerations in determining the length of any suspension as well.

These factors were taken into account by the Commission prior to the issuance of its August 1, 1977 order. We are aware that we have departed from past Commission policy on suspensions under Section 205 of the Federal Power Act. We have, however, reconsidered the appropriateness of suspending in this docket and have found that a reduction in the suspension period from five months to one month is warranted.

The Commission finds: PSPL’s Motion for Reconsideration of August 31, 1977, should be granted in part.

The Commission orders: (A) PSPL’s Motion for Reconsideration is hereby granted, in part. (B) PSPL’s proposed rate increases are hereby suspended for one month, or until November 1, 1977, when they are to become effective subject to refund.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMI, Secretary.

[FR Doc. 77-28970 Filed 9-30-77; 4:45 am]

[6740-02 ]

[DOCKET Nos. ARB-2 and ARB-1, et al.]

AREA RATE PROCEEDING, ET AL., (SOUTHERN LOUISIANA AREA)

Order Directing Disbursement and Flow-Through of Refunds


On July 16, 1971, the Commission issued its Opinion No. 598 and order establishing just and reasonable rates for jurisdictional sales of natural gas produced in the Southern Louisiana Area. Pursuant to Ordering Paragraph (G) of Opinion No. 598, each producer was given the alternative of discharging its refund obligation through credits for dedication of new gas reserves for sale to interstate pipelines, after August 1, 1971, and prior to October 1, 1977, in addition to those new gas revenues already dedicated to interstate commerce as of October 1, 1970. The producers electing this option were required to refund in each plus 7 percent interest effective from August 1, 1971, the outstanding refund obligation remaining as of October 1, 1977.

We now require those producers who elected to discharge their refund obligations through credits and who have an outstanding refund obligation remaining as of October 1, 1977, to discharge their refund obligations on or before October 31, 1977.

In order to insure the orderly administration and review of the refunds to be made pursuant to this order, we shall require that all refunds made by working interest owners whose gas was sold under the rate schedule of another producer be coordinated with and reported by the producer under whose rate schedule the sale was made.

Once the refunds have been disbursed to the respective purchasers, the purchasers shall flow the refunds through to their jurisdictional customers; provided, however, that purchasers shall not be required to flow-through these refunds, if any, to which they may assert a claim of entitlement under terms of prior rate settlement agreements approved by the Commission.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the refunds subject to this order be disbursed and flowed-through hereafter on a timely basis.

The Commission orders: (A) On or before October 31, 1977, each producer who elected to discharge its refund obligations under Commission Opinion No. 598, may elect to discharge its refund obligation through credits to jurisdictional sales, indicating for each rate schedule and each jurisdictional customer the amount payable to each jurisdictional customer. The producers shall flow the refunds through the jurisdictional sales, indicating the amount payable to each jurisdictional customer.

(B) All refunds and reports made pursuant to Ordering Paragraph (A) above shall be coordinated with and reported by the producer under whose rate schedule the sale was made.

(C) On or before November 23, 1977, each producer shall submit three copies of a plan for the flow-through of the refunds ordered to be disbursed by Southern Louisiana producers and presently being retained by the producer, applicable to jurisdictional sales, indicating the amount payable to each jurisdictional customer and upon interest owners whose gas was sold under the rate schedule of another producer.

(D) Upon notification by the Secretary, and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

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1See Section 1.34 of the Commission’s Rules of Practice and Procedure, which requires a final decision or order before an application for rehearing can be filed.

2See Section 3.8 of the Commission’s Rules of Practice and Procedure, which requires a final decision or order before an application for rehearing can be filed.

3The producers are also required to file their reserve dedication reports on or before October 1, 1977.
NOTICEs

The Commission orders: (A) California is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; Provided, however, That participation of such intervenor shall be limited to the matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and Provided, further, That the admission of such intervenor shall not be construed as recognition of such intervenor by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28976 Filed 9-30-77; 8:45 am]

[6740-02]

SOUTHWESTERN PUBLIC SERVICE CO.
Order Granting Intervention
September 27, 1977.

The New Mexico Electric Service Co. of Hobbs, N. Mex., filed on August 25, 1977, a PETITION TO INTERVENE in the above-docketed proceeding now set for formal hearing.

Public notices of the original filing and its amendment in this proceeding were issued on March 6, 1976, and on March 23, 1977, respectively. New Mexico Electric's Petition to Intervene was filed dockedly out of time.

New Mexico Electric supports its Petition by stating that it is a party to the interconnection agreement entered into between Southwestern Public Service and itself. The filing here pertains to firm capacity sales made by Southwestern Public Service to New Mexico Electric, and unit capacity sales from New Mexico back to Southwestern.

Our order of July 25, 1977, in this docket accepted for filing and suspended for one day Southwestern's filing. A formal hearing was ordered with an initial conference to convene before a Presiding Administrative Law Judge on September 13, 1977, for further disposition of the case.

Since New Mexico Electric Service Co. is involved in the proceeding before us and is vitally concerned with its outcome, we believe it to be in the public interest to allow intervention notwithstanding that the Petition to Intervene was filed after the prescribed time.

The Commission finds: The participation by the New Mexico Electric Service...
Co. in this proceeding may be in the public interest.

The Commission orders: (A) The New Mexico Electric Service Co. is hereby permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission; Provided, however, that participation by New Mexico Electric shall be limited to matters affecting certain rights and interests concerning the interconnection agreement which is involved in this above-mentioned proceeding; and Provided, further, that the admission of New Mexico Electric shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plume, Secretary.

[FR Doc.77-2979 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. CP76-138]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

September 27, 1977.

Take notice that on September 19, 1977, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1369, Houston, Tex. 77001, filed in Docket No. CP 76-138, a petition to amend the Commission's order of December 22, 1975 (54 FPC --), as amended February 7, 1977 (57 FPC --) issued in the instant docket pursuant to Section 19 (e) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), so as to provide for the transportation of natural gas for Cannon Mills Co. (Cannon) for an extended 2-year period, or through December 31, 1979, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of December 22, 1975, in this proceeding, Petitioner was authorized to transport, on an interruptible basis, for 2 years, up to 1,500 Mcf of natural gas per day at 15.025 psia to Public Service Company of North Carolina, Inc. (Public Service) for the account of Cannon Mills Co. (Cannon) for delivery by Public Service for use by Cannon in its textile plants located at Kannapolis and Concord, N.C. It is stated that Cannon had arranged to purchase the gas to be transported from Franks Petroleum, Inc. (Franks) which would be produced in the Midland Field, Acadia Parish, La., and delivered to Petitioner at the tailgate of Continental Oil Co.'s Acadia Gas Processing Plant in Acadia Parish, La., It is indicated that the proceeding was ordered pursuant to the Commission's order of February 7, 1977, in the Instant docket, the order of December 22, 1975, was amended by authorizing Petitioner to add deliveries to an additional facility located in Maiden, N.C., which plant is owned by a subsidiary of Cannon, Maiden Knitting Mills, Inc., and is served from the total 1,500 Mcf per day previously authorized. It is stated that Petitioner was authorized to deliver 73 Mcf of natural gas per average day and 136 Mcf of natural gas per peak day to Piedmont Natural Gas Company (Piedmont) for redelivery to Cannon's Maiden facility.

Petitioner states that the transportation service for Cannon has been rendered pursuant to Rate Schedule X-81, on file with the Commission in Petitioner's FFC Gas Tariff, Original Volume No. 2, and that the transportation service is intended to be furnished for 2.10 cents per dekatherm. Petitioner also retains 3.8-percent of the volume transported for fuel and line loss, if any is said.

Petitioner indicates that present authorization to transport gas for Cannon's account would expire December 31, 1977, and that Cannon's requirements for continuing deliveries of the transportation service for Priority 2 process use in its textile plants will exceed the presently authorized service for 1976 and 1977, and that the transportation service is required to continue beyond the expiration date of the existing authorization. Petitioner further indicates that Cannon projects reduced level of service from its local supplier, Public Service and Piedmont for its three plants, and that this would result in economic hardships on employees and the communities in which the plants are located if there are layoffs and plant shutdowns because of curtailed gas service.

Cannon has continued assurance of a gas supply for its transportation service from the same supplier, Franks, which has been providing the present level of service. It is said, however, that such increases may not surpass the rate level of the Company's large user (industrial) retail rate. The July 26 Order did however modify the paragraph directing refunds, and on August 25, 1977, the Company filed an application for rehearing of the modification, together with a motion for stay of its refund obligation pending action thereon.

The rates at issue were filed by Wisconsin Michigan on November 28, 1975. In Docket No. EP76-3032 and became effective March 1, 1976. Our April 29, 1977 Order on Reconsideration (April 29 Order) required the Company to refund (with interest) any amounts collected after March 1, 1976, which were above the level of the Company's most recently approved large industrial retail rate on file with the Public Service Commission of Wisconsin. In our rehearing order of June 26, 1977 (July 29 Order), we stated (mimeo p. 19).

In their application for rehearing of the April 29 Order, the Cities pointed out that the refund order was ambiguous as to which retail rate level was meant: That in effect when the wholesale rates were filed or that in effect as of the April 29 Order. The effective large user retail rate as of April 29, 1977 was one which had been approved by the Wisconsin Commission on August 16, 1976. This superseded the previous rate which had been in effect since November 25, 1975. In our rehearing order of July 26, 1977 (July 29 Order), we stated (mimeo p. 12):

1

As we hold in our previous order, state approval of Wisconsin Michigan's industrial retail rate increases does not prevent filing of a corresponding wholesale rate. We shall therefore amend finding paragraph (2) and ordering paragraph (6) of our Order on Reconsideration filed August 26, 1976, to direct Wisconsin Michigan to file revised tariff sheets reflecting rates reduced to the level of the industrial retail rate. In effect as of November 28, 1976, and to make appropriate refunds (at 9 per cent per annum interest) of any amounts in excess thereof collected after March 1, 1976.

In its current application the Company argues that, assuming the large user retail rate does impose a ceiling on the wholesale rate (a holding which the Company disputes), then, by the terms of the Cities' contracts, whenever an increased large industrial rate goes into effect, the wholesale customers' "automatic acceptance" of the higher industrial retail rate is triggered. The Company requests ignores entirely the exhaustive discussions underlying our findings in the April 29 and July 26 Orders. In these Orders we clearly showed that, regardless of the contract language providing for "automatic acceptance" by the wholesale customers of increased large user retail rates, Wisconsin Michigan is required to file the proposed rates with this Commission for approval of such increase. We shall therefore deny the Company's request for an automatic adjustment of its wholesale rates to track changes in its large user retail trade.

Wisconsin Michigan objects to the refund provision in its order whereby a retail rate level which was superseded as of August 16, 1976, was imposed as the ceiling on the Company's wholesale rates collected not only before but rather reserved them for decision between March 16 and August 16, 1976, but also after August 16, 1976. The Company points out that the cities did not correctly press their contract rights until some seven months after the rates in Docket No. ER76-303 had been filed. The Commission ruling on the City's claims was in effect notforthwithstanding, 1977. The Company argues that it could not know that it was foregoing just and reasonable wholesale revenues by failing to file a wholesale rate increase triggered by the Wisconsin Commission's subsequent retail rate order. Wisconsin Michigan believes the Commission should consider these facts in fashioning an equitable refund order and should not permit the Cities to reap greater refunds through tardy prosecution of their case.

We are persuaded that the Company's argument on rehearing has merit. Although it is true that all future wholesale increases must be approved by a State-approved industrial retail rate as well as by a filing with this Commission, we believe it equitable to waive the latter requirement in this single instance. In view of the Cities' tardy prosecution of their contract rights, we shall not require Wisconsin Michigan to have made a second wholesale filing to track the August 16, 1976, increase in the industrial rate, which increase the filing in Docket No. ER76303 already covers. An order granting refunds to bring the rate down to the effective parity rate will give the Cities all they bargained for under the contract.

For the above reasons, we shall grant that part of Wisconsin Michigan's application for rehearing filed March 16, 1976, with respect to the Wisconsin Michigan Power Co.'s application for rehearing which requests modification of the refund provision is hereby granted, and finding paragraph (3) of the Order issued July 26, 1977, in that proceeding is hereby amended as set forth in finding paragraph (2), supra.

Within 30 days of the date of issuance of this order, Wisconsin Michigan Power Co. shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 per cent per annum Interest of: (1) any amounts collected from March 1, 1976, to August 16, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

We are persuaded that the Company's motion for a stay pending action on its application for rehearing, which requests modification of the refund provision in our Order issued July 26, 1977, in this proceeding, Finding Paragraph (3) of the Order issued July 26, 1977, should be amended to read:

(2) Good cause exists to grant that part of Wisconsin Michigan Power Co.'s application for rehearing, filed August 29, 1977, which requests modification of the refund provision in our Order issued July 26, 1977, in this proceeding. Finding Paragraph (3) of the Order issued July 26, 1977, should be amended to read:

(2) It is proper and appropriate in the public interest that Wisconsin Michigan Power Co. be directed to: (1) eliminate from the rates which were collected from March 1, 1976 to August 16, 1976, in No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976, and (2) eliminate from the rates which were collected after August 16, 1976, in Docket No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

(3) Good cause exists to grant Wisconsin Michigan Power Co.'s motion for stay pending action on its application for rehearing which is described in Finding Paragraph (1), supra, is hereby denied.

(4) That part of Wisconsin Michigan Power Co.'s application for rehearing which requests modification of the refund provision is hereby granted, and Finding Paragraph (3) of the Order issued July 26, 1977, in that proceeding is hereby amended as set forth in Finding Paragraph (2), supra.

Within 30 days of the date of issuance of this order, Wisconsin Michigan Power Co. shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 per cent per annum Interest of: (1) any amounts collected from March 1, 1976, to August 16, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of November 28, 1976, and (2) any amounts collected after August 16, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

Wisconsin Michigan Power Co. shall file a report with this Commission.
NOTICES

Federal Register Details

[FR Doc.77-28975 Filed 9-30-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

304 CORPORATION

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions in section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by 304 Corp., Omaha, Nebraska ("304"), which has transferred 100 per cent of the outstanding voting stock of Industrial Loan & Investment Co., Omaha, Nebraska, to Industrial Loan Co., Omaha, Nebraska ("Industrial"), for a determination that 304 is not nor will be in fact capable of controlling Industrial or its president, Frank C. Meyo, notwithstanding the fact that both Industrial and Mr. Meyo are indebted to the transferor or has is indebted to the transferor, unless the Board, after opportunity for hearing, deems that the transferor is not, in fact, capable of controlling the transferee.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 17, 1977. If a request for oral hearing is filed, such request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferee, the transferor, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.


Kenneth F. Plum, Secretary.

[FR Doc.77-29062 Filed 9-30-77;8:45 am]

[6820-14]

GENERAL SERVICES ADMINISTRATION

COST OF TRAVEL AND OPERATION OF PRIVATELY OWNED VEHICLES

Report; Correction

In FR Doc. 77-26942 appearing at page 49037 in the Issue of Wednesday, September 14, 1977, the first sentence of paragraph 1 under the heading Addendum to the Report on the Cost of Travel and the Operation of Privately Owned Vehicles is corrected in the third line of that paragraph by replacing the word "beginning" with the word "performed." The revised sentence reads as follows: The changes to mileage and travel allowances reflected in the preceding report are effective for travel performed on or after September 10, 1977.


Joel W. Solomon,
Administrator of General Services.

[FR Doc. 77-29063 Filed 9-30-77;8:45 am]

[4110-16]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

SCHEDULE OF LIMITS UNDER THE HEALTH INSURANCE PROGRAM FOR COST REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1977

On August 12, 1977, the Department published in the Federal Register (42 FR 40948) a Notice of Proposed Schedule of Limits on Hospital Inpatient General Routine Service Costs for Hospitals with Cost Reporting Periods Beginning on or After October 1, 1977. The revised sentence reads as follows: The Schedule applies to the total of the cost of hospital inpatient general routine service costs. These limits do not apply to the cost of special care units or ancillary services.

The Secretary of Health, Education, and Welfare is strongly committed to a national policy of containing the rapidly escalating health care costs and will make all possible efforts to contain these costs. The Secretary hereby serves notice of his intention to review these limits from time to time and make such changes in the limits as circumstances may warrant. In addition, changes will be prospective in nature but will be applied to all hospital inpatient general routine service costs after the effective date of the changes. In the initial limits contained in this schedule will be revised to conform with any Federal cost containment legislation enacted subsequent to the effective date of this schedule.

The initial classification system, which is described in the Federal Register (42 FR 20169) published June 6, 1974, was developed to provide for the identification of hospitals of similar size and in similar economic environments. Several refinements of the initial classification system were made effective July 1, 1975, and are described in the Federal Register (42 FR 23622) published May 30, 1975. An additional refinement was made in the revised schedule of limits effective July 1, 1976. The refinement was the result of changes in the size of units of economic environment, and is described in the Federal Register (41 FR 28992) published June 30, 1976.

A refinement was made in the revised schedule of limits published in the Federal Register (42 FR 35496) published July 8, 1977. This limited refinement arose from the definition of metropolitan environment in the New England area. Under the Office of Management and Budget (OMB) definition, which has been used to distinguish between metropolitan and nonmetropolitan areas, Standard Metropolitan Statistical Areas (SMSA's) and Standard Consolidated Statistical Areas (SCSA's) in New England are based on cities and towns rather than on counties, as is the case in the rest of the United States. Because SMSA's and SCSA's are used to delineate SMSA's and SCSA's in New England, a county may be part of more than one SMSA or only a part of a county may be in an SMSA. However, income data supplied by the Department of Commerce, Bureau of Economic Analysis (BEA), which are used to group various areas according to economic environment, are available only on a county basis. In order to use the available data, BEA has slightly changed SMSA defini-
tions in New England so that the SMSA's follow county lines.

Therefore, a hospital located in the part of the county not included by OMB in the SMSA/SCSA would be subject to a nonmetropolitan limit even though the per capita income of the hospital's location had been used for SMSA/SCSA classification purposes. This situation is inconsistent with the classification grouping for the rest of the United States where the OMB and BEA definitions of SMSA's consistently follow county lines.

In order to rectify this inconsistency, there is a change in the description of the metropolitan environment used in the classification system. The change would alter the requirements for metropolitan status and would deem an entire county to be within an SMSA/SCSA if any part of such county was included by OMB in the SMSA/SCSA. Where a county contains the major city of an SMSA and is considered to be a part of one or more SMSA's, the entire county would be deemed to be part of the SMSA whose major city it encompasses. Where a county contains the OMB for parts of two or more SMSA's and does not contain the major city of any SMSA, the county would be included in the SMSA/SCSA having the highest per capita income.

An SMSA/SCSA is defined as the county or counties in a group with a limit lower than the limit to which it would have been subject without the change. The higher limit may be applied in the cost reporting period to which this schedule applies.

An additional refinement made in the revised schedule of limits effective July 1, 1977, for nonmetropolitan areas is incorporated in the revised schedule set forth below.

In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitive to changes in economic conditions from one year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. In order to provide more equitable treatment to nonmetropolitan areas, a change has been made that would base the classification of State nonmetropolitan areas on a 5-year per capita average income instead of a one year base period. In these areas, the longer base would be more reflective of the economic environment than a single year's income.

The same change was considered for the metropolitan (SMSA/SCSA) areas. However, these areas do not exhibit the same volatility of per capita income from one year to the next as do the non-SMSA areas. This may be attributed to diversity in economic activity in the SMSA areas plus the additional benefits, such as supplemental unemployment compensation, which are available to the mostly unionized workers in these areas. Therefore, no change was made in the classification system for SMSA/SCSA areas.

The revised Schedule of Limits retains the provision to protect metropolitan areas from a change in the period in which this schedule is in effect from the effects of lower limits that might result from circumstances that result in a lower per capita income for the provider's area. Thus, if a metropolitan provider's area, having the lowest per capita income in a year or a change in SMSA/SCSA designation during the year, places the area in a group lower than in the previous year, the limit to be applied for that year will be the higher of the current period group or the immediately preceding year group. This provision will lessen the effect of unusual short-term fluctuations in area per capita income on reimbursement to individual providers.

For the period in which this schedule is in effect the same provision will be applied to nonmetropolitan providers which have income levels similar to a lower group as a result of the new classification methodology. SMSA and non-SMSA areas that are affected by this provision are indicated in the list of groups by a footnote after the area name.

Example. Hospital A, Bed size: 150.
Per capita income in the provider's SMSA during the period on which the classification is based was reduced because of fluctuations in the effects of a natural disaster. Provider A had been classified in Group II effective October 1, 1976, and is now classified in Group III beginning October 1, 1977. The limit to be applied for October 1, 1977, is the higher of the Group II limit or the Group III limit.

Interested parties were given 30 days from the date of publication of the proposed schedule of limits within which to submit data, views, and arguments. Comments and suggestions received with regard to that notice of proposed Schedule of Limits, responses thereto, and changes made in the schedule of limits are summarized below.

5-Year Per Capita Income Averaging

1. Some comments questioned the use of a 5-year per capita average income for nonmetropolitan areas only. In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitive to changes in economic conditions from 1 year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. Therefore, in order to provide a more equitable treatment to nonmetropolitan areas, the classification of State nonmetropolitan areas is based on a 5-year per capita average income instead of a 1-year base period. The same concept was considered for metropolitan areas but since the per capita income does not exhibit the same relative fluctuations as non-SMSA income, therefore, it was not necessary to make the same changes for metropolitan areas.

COUNTY BASIS FOR CLASSIFYING NEW ENGLAND AREA HOSPITALS

2. Several comments centered upon the use of counties rather than SMSA/SCSA's in the New England area and why the provision was not made retroactive. Careful consideration was given to the impact of such a provision prior to its inclusion in the proposed schedule. Because the SMSA/SCSA definition did not match each hospital's location in the New England area with the income data used to classify areas, the county basis was chosen for classifying hospitals in the New England area as county location coincides with income data. We carefully considered the possibility of retroactive application of this refinement and have determined that such retroactive application would be inappropriate since some providers could be adversely affected by this change.

SOURCE OF PER CAPITA INCOME DATA

3. In response to comments concerning the source of per capita income data, used to group SMSA/SCSA's and Non-SMSA/SCSA's, the data utilized are from Local Area Personal Income 1969-1974, June 1976, Volume I, Summary, published by the United States Department of Commerce, Bureau of Economic Analysis.

SOURCE OF SMSA/SCSA AREAS

4. Inquiry was made about the source of the definitions of Standard Metropolitan Statistical Areas and Standard Consolidated Statistical Areas. Except as modified by this notice for the New England area, the SMSA/SCSA titles conform to the definitions used by the Office of Management and Budget in its publication Standard Metropolitan Statistical Areas 1975, revised edition.

Duplicative Comments

5. A number of comments which were received duplicated comments made prior to publication of the previous sets of limits. A discussion of these items can be found in the Federal Register (41 FR 26929) published June 10, 1976, the Federal Register (40 FR 23622) published May 30, 1975, and the Federal Register (39 FR 20168) published June 6, 1974.

6. Various editorial changes have been made in the interest of clarity. All SMSA's and SCSA's have been divided into the following five groups based on per capita income. Counties, rather than SMSA/SCSA areas, are listed for New England States.

SMSA/SCSA Group I

ALASKA

Anchorage.

CALIFORNIA

Los Angeles-Long Beach-Anaheim (SCSA)

NOTICES

San Francisco-Oakland-San Jose (SCSA)
San Francisco-Oakland, San Jose, Vallejo-Fairfield-Napa.

COLORADO
Denver-Boulder.

CONNECTICUT
Fairfield County, Hartford County, Litchfield County, Middlesex County, Tolland County, Washington, DC, DC-MD-VA.

DISTRICT OF COLUMBIA

FLORIDA
Miami-Fort Lauderdale (SCSA)
Fort Lauderdale-Hollywood, Miami, Sarasota, West Palm Beach-Boca Raton.

ILLINOIS
Chicago-Gary, IL-IN (SCSA)
Chicago, IL, Gary-Hammond-East Chicago, IN, Peoria, Springfield.

IOWA
Davenport-Rock Island-Moline, IA-IL.

MICHIGAN
Detroit-Ann Arbor (SCSA)
Detroit, Ann Arbor, MINNESOTA
Minneapolis-St. Paul, MN-WI.

NEVADA
Reno.

NEW JERSEY
See New York SCSA.

NEW YORK
New York-Newark-Jersey City, NY-NJ-CT (SCSA)

OHIO
Cleveland-Akron-Lorain, (SCSA)
Cleveland, Akron, Lorain-Elyria.

VERMONT
Rutland.

WISCONSIN
Milwaukee-Racine (SCSA)
Milwaukee, Racine, Kenosha.

COLORADO

CALIFORNIA
Bakersfield, Santa Barbara-Santa Maria-Lompoc, San Diego, Stockton.

CONNECTICUT

DELAWARE
New Haven County, New London County.

GEORGIA
Atlanta.

HAWAII
Honolulu.

IDAHO
Boise City.

ILLINOIS
Bloomington-Normal, Decatur, Elmhurst, Rockford.

INDIANA
Fort Wayne, Indianapolis.

IOWA
Cedar Rapids, Des Moines, Waterloo-Cedar Falls.

KANSAS
Topeka, Wichita.

KENTUCKY
Louisville, KY-IN.

MARYLAND
Baltimore.

MASSACHUSETTS
Berkshire County, Essex County, Middlesex County, Norfolk County, Plymouth County, Suffolk County, Worcester County.

MICHIGAN
Flint, Grand Rapids, Jackson, Kalamazoo-Portage, Saginaw.

MISSOURI
Kansas City, MO-KS, St. Louis, MO-IN.

NEBRASKA
Lincoln.

NEW HAMPSHIRE
Rochingham County.

NEW JERSEY
See Philadelphia SCSA.

NEW MEXICO
Las Vegas.

NEW YORK
Albany-Schenectady-Troy, Buffalo, Poughkeepsie.

NORTH CAROLINA
Greensboro-Winston-Salem-High Point.

NORTH DAKOTA
Fargo-Moorhead

OHIO
Dayton, Lima, Toledo, OH-MI, Youngstown-Warren.

OREGON
Portland, OR-WA.

PA-DE MD-NJ

RHODE ISLAND
Washington County.

TEXAS
Houston-Galveston (SCSA)
Houston, Galveston-Texas City, Dallas-Fort Worth, Midland.

WASHINGTON
Seattle-Tacoma, (SCSA)
Seattle- Everett, Tacoma.

WISCONSIN
Madison.

ARIZONA
Phoenix.

Bakerfield, Santa Barbara-Santa Maria-Lompoc, San Diego, Stockton.

CONNECTICUT
New Haven County, New London County.

DELAWARE
See Philadelphia SCSA.

GEORGIA
Atlanta.

HAWAII
Honolulu.

IDAHO
Boise City.

ILLINOIS
Bloomington-Normal, Decatur, Elmhurst, Rockford.

INDIANA
Fort Wayne, Indianapolis.

IOWA
Cedar Rapids, Des Moines, Waterloo-Cedar Falls.

KANSAS
Topeka, Wichita.

KENTUCKY
Louisville, KY-IN.

MARYLAND
Baltimore.

MASSACHUSETTS
Berkshire County, Essex County, Middlesex County, Norfolk County, Plymouth County, Suffolk County, Worcester County.

MICHIGAN
Flint, Grand Rapids, Jackson, Kalamazoo-Portage, Saginaw.

MISSOURI
Kansas City, MO-KS, St. Louis, MO-IN.

NEBRASKA
Lincoln.

NEW HAMPSHIRE
Rochingham County.

NEW JERSEY
See Philadelphia SCSA.

NEW MEXICO
Las Vegas.

NEW YORK
Albany-Schenectady-Troy, Buffalo, Poughkeepsie.

NORTH CAROLINA
Greensboro-Winston-Salem-High Point.

NORTH DAKOTA
Fargo-Moorhead

OHIO
Dayton, Lima, Toledo, OH-MI, Youngstown-Warren.

OREGON
Portland, OR-WA.

PA-DE MD-NJ

RHODE ISLAND
Washington County.

TEXAS
Houston-Galveston (SCSA)
Houston, Galveston-Texas City, Dallas-Fort Worth, Midland.

WASHINGTON
Seattle-Tacoma, (SCSA)
Seattle- Everett, Tacoma.

WISCONSIN
Madison.

ARIZONA
Phoenix.
NOTICES

SMSA/SCSA Group V

ALABAMA
Anniston, Florence, Gadsden, Huntsville, Mobile, Tuscaloosa.
ARKANSAS
Fayetteville-Springdale, Fort Smith, AR-OK, Pine Bluff.
FLORIDA
Pensacola.
INDIANA
Albany.
LOUISIANA
Alexandria, Lafayette, Lake Charles, Monroe.
MAINe
Androscoggin County.
MINNESOTA
St. Cloud.
MISSOURI
Columbia, Springfield.
MISSISSIPPI
Biloxi-Gulfport, Pascagoula-Moss Point.
NORTH CAROLINA
Fayetteville, Wilmington.
OKLAHOMA
LAWTON.
PENNSYLVANIA
Altoona.
PUERTO RICO
Caguas, Mayaguez, Ponce, San Juan.
ST. LUCIE
Group IV

TENNESSEE
Johnson City-Kingsport-Bristol, TN-VA.
TEXAS
Brownsville-Harlingen-San Benito, Bryan-College Station, Corpus Christi, El Paso, Laredo, McAllen-Pharr-Edinburg, Texarkana, TX-AR.
UTAH
Provo-Orem.
WEST VIRGINIA
Huntington-Ashland, WV-KY-OH.
WISCONSIN
Eau Claire.

Non-SMSA areas will be classified according to the per capita income of all non-SMSA counties within a State. The following are the five income groupings, (with States classified according to a 5-year per capita income average) to be used for hospitals located in non-Standard Metropolitan Statistical Areas in those States.

Non-SMSA

GROUP I

Alaska
Iowa
Kansas
Massachusetts
Nebraska

GROUP II

California
Connecticut
Delaware
Hawaii

GROUP III

Colorado
Idaho
Indiana
Maryland
North Dakota

GROUP IV

New Mexico
North Carolina
New York
Ohio
Oregon
Pennsylvania
South Dakota
Vermont

GROUP V

Arizom
Maine
Mississippi
Missouri
New Jersey
New York

With respect to the Standard Consolidated Statistical Area/Standard Metropolitan Statistical Area groupings, the groupings were developed by combining the SCSA/SMSA's which reflect a similar economic environment as expressed by per capita income data. The SCSA/SMSA's were arrayed in order of the size of their per capita income and groupings were established. The same procedure was followed for grouping the non-SMSA/SMSA areas to arrive at State groups.

The following bed-size categories are used to classify hospitals:

Standard Metropolitan Statistical Areas

GROUPS I AND II

Less than 100.
100-404.
405-684.
685 and above.

GROUPS III, IV, AND V

Less than 100.
100-404.
405 and above.

Non-Standard Metropolitan Statistical Areas

Less than 100.
100-170.
170 and above.

The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.
2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.
3. The 80th percentile and the median were computed for each class.
4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.
5. This sum was adjusted to reflect the 14 percent annual rate of estimated cost increases in per diem routine service costs following the date of data collection.
6. The amounts calculated in step 5 are rounded to the next highest dollar

1Hospitals in areas (SCSA or SMSA) identified by a figure one will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.
2Hospitals in States identified by a figure two will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.
which establishes the limit for each class, subject to adjustment for hospitals reporting on other than a reporting period beginning July 1, 1977.

Under the authority of section 1861(v) of the Social Security Act, the following cost limitations apply to the total of the hospital's inpatient general routine service costs (excluding costs incurred for special care units and ancillary services), adjusted upward as provided for below.

The limits are applicable to cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of a revised schedule.

The limits are applicable to any hospital with a cost reporting period beginning on or after October 1, 1977. Where a hospital has a cost reporting period beginning after July 1, 1977, the published limit will be adjusted upward by a factor of 1.17 percent for each clapsed month between July 1, 1977, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example—Hospital A's cost reporting period starting in 1977 begins October 1, 1977, and ends September 30, 1978. The cost factor for Hospital A's group from the table below is $100.

Computation of Adjusted Cost Limit

Cost factor $100.00
Plus: Adjustment for 3-month period (July 1, 1977, to Sept. 30, 1977), 3 months \( \times 1.17 \) per cent. $3.51 per cent.

Adjusted cost limit applicable to hospital A for the Oct. 1, 1977, to Sept. 30, 1978, reporting period $103.51

SCHEDULE OF LIMITS ON HOSPITAL IN-PATIENT GENERAL ROUTINE SERVICE COSTS FOR HOSPITALS WITH COST-REPORTING PERIOD BEGINNING ON OR AFTER JULY 1, 1977 (A)

A. The schedule of limits and adjustment factor are only for a 12-month cost reporting period. For providers with other than 12-month cost reporting periods, intermediaries must contact the Health Care Financing Administration for adjustment factor.

<table>
<thead>
<tr>
<th>Hospitals located within SMSA's (metropolitan) bed size</th>
</tr>
</thead>
<tbody>
<tr>
<td>SMSA group</td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td>I</td>
</tr>
<tr>
<td>II</td>
</tr>
<tr>
<td>III</td>
</tr>
<tr>
<td>IV</td>
</tr>
<tr>
<td>V</td>
</tr>
</tbody>
</table>

NOTICES

Hospitals located within SMSA's (nonmetropolitan) bed size

<table>
<thead>
<tr>
<th>State group</th>
<th>Less than 100</th>
<th>100 to 499</th>
<th>500 and above</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>$150 $149</td>
<td>$150 $149</td>
<td>$150 $149</td>
</tr>
<tr>
<td>II</td>
<td>$150 $149</td>
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<tr>
<td>III</td>
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<td>$150 $149</td>
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<tr>
<td>V</td>
<td>$150 $149</td>
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<td>$150 $149</td>
</tr>
</tbody>
</table>

For further information, contact:

Mrs. Virginia K. Craig, Health Care Financing Administration, Medicare Bureau, 6401 Security Boulevard, Baltimore, Md. 21235, Director, Division of Provider Reimbursement and Accounting Policy (301-594-9600).

Effective date. The Schedule of Limits will be effective for cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of any revised schedule which may be published.

[SECT. 1258, 1395cc(a), and 1395cc(c), as amended; 42 U.S.C. 1395x(v), as amended; 74 Stat. 323, as amended; 70 Stat. 337, as amended; 70 Stat. 331; 33 U.S.C. 1392, 1395cc(a), and 1202b.]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 20187; 70-4537]

Public Utility Holding Company Act of 1935

NORTHEAST UTILITIES, ET AL.

Post-Effective Amendment Requesting Extension of Time for the Issuance and Sale of Notes to Holding Company

September 23, 1977

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, the Rocky River Realty Co. ("Rocky River"), its nonutility subsidiaries, and the Connecticut Light & Power Co., an electric utility subsidiary company of Northeast, have filed with this Commission a fourth post-effective amendment to the application-declaration, filing, and issuance of sections 6(a), 7(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions:

By order in this proceeding dated October 21, 1977 (HCAR No. 15243), Rocky River was authorized to engage in the business of acquiring, maintaining, and disposing of real property in connection with the utility operations of the operating companies of the Northeast holding-company system. Said order of October 24, 1977, as amended by supplementary orders of December 11, 1977, and October 27, 1977 (HCAR Nos. 16941 and 17770) also authorized Rocky River to issue and sell to Northeast until October 24, 1977, and Northeast was authorized to acquire the capital stock of the Rocky River Realty Group of companies, have filed with the Commission a fourth post-effective amendment to the application-declaration, stating the nature of its interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment which it desires to controvert. He may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
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 Com-
mission 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 re-
quest a hearing or advice as to whether a
hearing is ordered will receive any no-
tices and orders issued in this matter, in-
cluding the date of the hearing (if or-
dered) and any postponements thereof.

For the Commission, by the Division of
Corporate Regulation, pursuant to dele-
gated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-28040 Filed 9-30-77; 8:45 am]

[4310-84] DEPARTMENT OF THE INTERIOR
Bureau of Land Management
(Bureau Order No. 701, Amdt. No. 20)
Bureau Order No. 701 dated July 23, 1964, is further amended as follows:

PART I—REDELEGATIONS OF AUTHORITY TO
STATE DIRECTORS

1. Section 1.7(d) is amended to read:

Section 1.7 Range Management.

(f) Protection of wild free-roaming horses
and burros.

Take all actions under the Act of December
as amended by the Federal Land Policy and Man-
agement Act of 1976) except (1) the de-
signation and maintenance of specific
ranges on public lands as provided in section
8(a), and (2) the arrest provisions in section
8(b).

2. A new subparagraph (6) is added to section
1.9(c) as follows:

Section 1.9 Land Use.

(6) Matters pertaining to Alaska.

(8) National Petroleum Reserve in Alaska.

Take all actions under the Naval Petroleum
Reserve Protection Act of 1976 (30 Stat. 1303;
43 U.S.C. 6001) involving surface man-
agement of the National Petroleum Reserve
in Alaska, including the protection of surface
values from environmental degradation, ex-
cept (1) submission of plans to the Com-
mittees on Interior and Insular Affairs of
the Senate and House of Representatives or an-
nual reports required by section 106(d) of
the Act, (2) establishment of a task force or
the submission of a report pursuant to sec-
tion 106(e) of the Act, and (3) enforcement of
regulations and stipulations which relate to
the exploration of petroleum resources.

GEORGE L. TURCOTT,
Acting Director.


[FR Doc. 77-28030 Filed 9-30-77; 8:45 am]

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Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1092-25; please refer to this number when submitting comments. All relevant comments received on or before November 2, 1977 will be considered.

Dated: September 27, 1977.

LARRY L. ROCHELLE,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office.
Fish and Wildlife Service.

[FR Doc. 77-22917 Filed 9-28-77; 7:45 am]

ATTACHMENTS FOR QUESTION 12 ON FORM 2-200

1. Species—Brown Eared Cacatuopsis<br>Manchuricum, Elliott's Symphates<br>ellioti, Helmeted Sphateus<br>hymenoleucus, Mikado Symphates<br>miidado, Sceloporus ophur. eingridin.

2. Be able to sell or buy the above breeds within the United States.

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d) of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Lee W. Woclot, 24 North Pearl Street, Oakfield, N.Y. 14125.

[4310-70]

National Park Service

CLARIFICATION OF APPEALS PROCEDURES

In a recent rulemaking notice (42 FR 30601, June 15, 1977), the National Park Service has clarified the appeals procedure for permit applications. The notice provides that interested persons may file appeals within 30 days of a decision by the Service. Appeals must be filed in writing and addressed to the Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240. The Notice also states that the Service will handle appeals in accordance with the Administrative Procedure Act and the Federal Register's Notice of Proposed Rulemaking. The Notice clarifies that the Service will respond to appeals within 30 days of receipt, and that appeals will be considered for a period of 60 days from the date of the Service's response. The Notice further states that interested persons may submit comments or requests for a hearing in response to an appeal, and that the Service will schedule hearings if necessary. The Notice also clarifies that interested persons may file a petition for a rulemaking under Section 7 of the Act, and that a hearing will be held if the Service determines that the petition is meritorious. The Notice also clarifies that interested persons may file a lawsuit in U.S. District Court if they believe that the Service has violated any provision of the Act or any rule, regulation, or order promulgated thereunder. The Notice also clarifies that interested persons may file a Citizen's Suit under Section 10 of the Act, and that the Service will consider such suits on their merits.

[FR Doc. 77-22918 Filed 9-30-77; 8:45 am]
NOTICES

Service briefly discussed appeal procedures for administrative decisions made by its officials. This rulemaking dealt with permit requirements for the sale or distribution of printed matter in park areas. One commenter had, in response to the proposed regulation, requested that an appeal procedure be included in the regulation. In response to this comment, the National Park Service stated that appeals from all administrative decisions of park Superintendents could be made to the Regional Director, the Director, and the Secretary of the Interior, successively.

Upon a review of this discussion, the National Park Service has determined that the information which was given is misleading and partially incorrect. It is the purpose of this notice, therefore, to clarify the general appeals procedures of the National Park Service.

The discussion mentioned above confused complaint procedures, wherein a person or other entity who is concerned with a governmental action will normally contact the appropriate Regional Director, with formal appeals procedures established to deal with specific processes. Except for those matters in which a right of appeal is stated in a regulation or law, there is no general right of appeal from decisions which a National Park Service official has been granted discretionary authority to make. This position is compatible with Departmental of the Interior regulations on appeals procedures, which specifically exempt from Departmental appeal those situations when:

" * * * the action of the Departmental official was based upon administrative or discretionary authority of such official." (43 CFR § 4.700).

Notwithstanding this limitation on formal appeals, decisions made by park Superintendents may be reviewed by appropriate Regional Directors, just as the Director may review the decisions of Regional Directors. Such reviews are discretionary with the reviewing officials and are not mandatory. Any decision made by the Director is final and may not be appealed, except as specifically provided by law or regulation.

Ira J. Hutchison, Deputy Director, National Park Service.

SEPTEMBER 21, 1977.

[FR Doc.77-20002 Filed 9-30-77; 8:45 am]

[4310-10] Office of the Secretary
TRANS-ALASKA PIPELINE LIABILITY FUND

Notification of Oil Discharge Incidents

1. Purpose. To provide instructions for the reporting of oil discharge incidents by persons in charge of vessels engaged in transporting Trans-Alaska Pipeline Oil.

2. Information. The Secretary of the Interior is responsible for certain functions related to the Trans-Alaska Pipeline Liability Fund, established by Congress under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)). The purpose of the Fund is to provide compensation for certain damages resulting from oil spills from vessels transporting Trans-Alaska Pipeline Oil from the Pipeline Terminal, Valdez, Alaska, to ports of United States Jurisdiction.

Section 29.8(a) of the Trans-Alaska Pipeline Liability Fund Regulation (42 FR 31702) requires the person in charge of a vessel transporting Trans-Alaska Pipeline Oil to immediately notify the Fund if an oil discharge incident occurs between the Terminal in Valdez, Alaska, and a termination port of United States Jurisdiction.

3. Notification Instructions. Notification of an oil discharge incident, under the provisions of § 29.8(a) of the Trans-Alaska Pipeline Liability Fund Regulation, shall be reported to the Fund through the Duty Desk, National Response Center, by calling (800-426-8802). The Duty Desk is operated 24 hours a day. The person notifying the Duty Desk at the National Response Center, U.S. Coast Guard, pursuant to this section, should indicate that the oil discharge incident involves a vessel carrying oil which has been transported through the Trans-Alaska Pipeline System.

Signed at Washington, D.C., this 23rd day of September, 1977.

LARRY E. MAZEROTTO, Deputy Assistant Secretary of the Interior and Secretary to the Board of Trustees.


[FR Doc.77-28949 Filed 9-30-77; 8:46 am]

[4310-10] Order No. 3010 ESTABLISHMENT OF ASSISTANT SECRETARY—INDIAN AFFAIRS

September 26, 1977.

Sec. 1 Purpose. This order provides for the establishment of the position of Assistant Secretary—Indian Affairs in the Secretariat of the Department of the Interior. This action is being taken in accordance with the authority provided by 43 U.S.C. 1433 and 1484, and Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 2 Establishment of Position. An Assistant Secretary—Indian Affairs is hereby established to administer the laws, functions, responsibilities, and authorities related to Indian affairs matters. In addition to serving as an Assistant Secretary of the Department, the Assistant Secretary—Indian Affairs will assume all the authorities and responsibilities of the Commissioner of Indian Affairs pending subsequent organization and position realignments.

Sec. 3 Authority. (a) The Assistant Secretary—Indian Affairs will have the authority of Assistant Secretaries of the Interior as described in 210 DM 1.2.

(b) The Assistant Secretary—Indian Affairs may redelegate the authority delegated in 210 DM 1.2A, except where prohibited by statute, Executive Order, or limitations established by other competent authority. Such redelegations will be reported to authorities currently published in Parts 205 and 230 of the Departmental Manual and to any authorities which were delegated to the Commissioner of Indian Affairs or the Bureau of Indian Affairs prior to the effective date of Reorganization Plan 3 of 1950 and which are not now specifically delegated to some other official.

(c) All authority delegated to the Commissioner of Indian Affairs is hereby revoked. Redelegations of authority within the Bureau of Indian Affairs which are based on 205 DM, 230 DM, and any authorities that were delegated to the Commissioner of Indian Affairs or the Bureau of Indian Affairs prior to the effective date of Reorganization Plan No. 3 of 1950 are hereby reinstated pending a general review of the activities of the bureau. Such reinstated authority will be subject to amendment and/or revocation by the Assistant Secretary—Indian Affairs.

Sec. 4 Effective Date. This order will become effective on the day the Assistant Secretary—Indian Affairs assumes office. It will remain in effect until its provisions are incorporated in the Departmental Manual, or until it is superseded or revoked. In the absence of the foregoing actions, this order will be considered obsolete one year after date of signature.


Cecil D. Andrews, Secretary of the Interior.

[FR Doc.77-29002 Filed 9-30-77; 8:16 am]

[4410-01] DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Proposed 1977 Revised Aggregate Production Quota—Mixed Alkaloids of Opium

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 5.100 of Title 28 of the Code of Federal Regulations.

On June 27, 1977, a notice of the final revised aggregate production quota for Mixed Alkaloids of Opium was published in the Federal Register (42 FR 32500-32501). Since the finalization of this quota, DEA has been made aware of increased export demands placed on the domestic manufacturer of dosage forms containing this substance.

One of the factors which the Administrator of the Drug Enforcement Ad-
Persons wishing to comment on these guidelines should write:

Dr. Shirley McBay, Resource Center for Science and Engineering Program, Division of Science and Education Resource Improvement, National Science Foundation, Washington, D.C. 20550.

All comments must be received by October 12, 1977. Final guidelines will be published in the Federal Register on or about December 1, 1977.

WALTER L. GILLESON, Division Director, Science Education Resource Improvement.

Draft Guidelines for the Preparation of Proposals

RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

Stage One Proposal Dates

Receipt Date: February 17, 1978

Date: Mid-March, 1978

Stage Two Proposal Dates

Receipt Date: May 19, 1977

Announcement of Selection of Resource Center Site

Early September, 1978

National Science Foundation Division of Science Education Resource Improvement Washington, D.C. 20550

INSIDE FRONT COVER

1. EXCERPT FROM FY 1978 NSF AUTHORIZATION LAW

The FY 1978 Budget for the Resource Center for Science and Engineering Program is approximately $5.0 million.

The following is an excerpt from the FY 1978 NSF Authorization Law (Pub. L. 95-99) regarding the Resource Center for Science and Engineering Program, Section 6(a), (b):

"Sec. 6(a) The National Science Foundation shall establish a Resource Center for Science and Engineering to be located at an educational institution which—

(1) Enrolls substantial numbers of minority students, students from low-income families, or both;

(2) Is geographically located near one or more population centers of low-income families or minority group;

(3) Demonstrates a commitment to encouraging and assisting minority students or students from low-income families or both; and

(4) Has an existing or developing capacity to offer doctoral programs in science and engineering."

(b) The Center established under this section shall—

(1) Support basic research and acquisition of necessary research facilities and equipment;

(2) Serve as a regional resource in science and engineering for the community which the Center serves; and

(3) Develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families."

TABLE OF CONTENTS—RCSC GUIDE

I. Excerpt from FY 1978 NSF authorization law

II. Graphic Description of Proposal and Selection Process

III. Program Description, General Purpose and Objectives

IV. Preparation and Submission of Initial Proposals—Stage One, Proposal Format and Content, Local Review Statement, Materials Required, Receipt Date and Projected Notification Date.

V. Preparation and Submission of Final Proposals—Stage Two, Proposal Form, and Content. Information on Current and Proposed Projects, Summary Information on Previous NSF Awards, Local Review Statement, Materials Required, Receipt Date and Projected Award Date.

VI. Evaluation Criteria and Procedure. Pre-Award Site Visit.


II. GENERAL PROGRAM MEANS

III. PROGRAM DESCRIPTION

Introduction

The Resource Center for Science and Engineering (RCSE) Program is a successor to the Fiscal Year 1977 Minority Centers for Graduate Education in Science and Engineering Program. In Fiscal Year 1978, the Foundation is authorized and directed to support the establishment of one Resource Center as characterized in the legislative except on the inside Front Cover of this Guide. Subject to the availability of funds, it is the Foundation's intent to establish additional centers over a period of time.

General Purpose and Objectives

The Resource Center for Science and Engineering Program is designed to promote increased participation in science and engineering by minority students and persons from low-income families.*

*Segments omitted in this Federal Register Draft are substantially similar to standard NSF descriptions.

*See page 3 for definitions.
The Program seeks to expand the options in science and engineering of minority students and students from low-income families by assisting eligible institutions in their efforts:

- To increase the application of such students.
- To increase the number of doctorates in science received by these students.
- To provide such students with role models in science.
- To develop their research opportunities with established scientists.
- To provide faculty associated with the Resource Centers with academic research options and to increase their scholarly productivity.

In Fiscal Year 1978 support will be provided for the establishment of a single center geographically located near one or more population centers of minority groups or low-income families which will (1) support basic research, (2) serve as a regional resource in science and engineering, and (3) develop joint educational programs with nearby precollege and under graduate institutions enrolling substantial numbers of minority students or students from low-income families.

Science as defined for the purposes of this Program includes, but is not limited to, mathematical, physical, and social sciences, the history and philosophy of science, and interdisciplinary activities involving overlap of major fields.

Type of support should:

- Provide optimum conditions for research and education involving at least one graduate degree granting institution, which meet all of the criteria listed below.
- Possess substantial support programs in teaching, research, and service.
- Have visible and functional staff to serve as role models for these students.
- Have demonstrated the ability to provide access to resources and information.
- Have demonstrated the ability to serve as role models for these students.
- Have demonstrated the ability to provide access to resources and information.
- Have demonstrated the ability to provide access to resources and information.
- Have demonstrated the ability to provide access to resources and information.

Eligibility and Limitations

- Institutions eligible to submit proposals in Fiscal Year 1978 to the Resource Center Program are those degree granting institutions, or groups of institutions, of higher education involving at least one graduate degree granting institution, which meet all of the criteria listed below.
- Low-Income Family—A family whose adjusted family income is less than $7,600.
- Have a demonstrated commitment to minority faculties as evidenced by its past, present, and projected future record.
- Provide the academic community at the grantee institution, a Resource Center should:
  - Develop facilities for research and education involving at least one graduate degree granting institution, which meet all of the criteria listed below.
  - Have demonstrated the ability to serve as role models for these students.
  - Have demonstrated the ability to provide access to resources and information.
  - Have demonstrated the ability to provide access to resources and information.
  - Have demonstrated the ability to provide access to resources and information.
  - Have demonstrated the ability to provide access to resources and information.
  - Have demonstrated the ability to provide access to resources and information.

Institutions planning to submit Stage One proposals should complete and mail the Intent to apply form on the back cover of this Guide by January 6, 1978.

IV. PREPARATION AND SUBMISSION OF INITIAL PROPOSALS—STAGE ONE

Proposal Format and Content

Proposals must contain the following in the order listed:
- Cover Sheet
- Institutional Data Sheet
- Narrative
- Curriculum Vitae of Key Project Personnel
- Local Review Statement
- Forms for the Cover Sheet, Estimated Budget Sheet, and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of proposals.

Budget

Estimated budget figures are permissible in Stage One. Budget guidelines and exclusions are discussed under General Fiscal Information on page 13.

Narrative

The Narrative should not exceed twenty (20) double-spaced typewritten pages, typed on one side only. It should set forth the proposed plan for the establishment of a Resource Center designed to accomplish Program objectives as reflected in the Guide and in the Program's authorizing legislation which is reproduced on the Inside Front Cover.

Specimen should be discussed in the Narrative include the following:

- Appropriateness/Eligibility of Institution as a Resource Center: Describe briefly how the applicant meets each of the eligibility criteria outlined on page 3. Summarize evidence of past, present, and future commitment to encouraging minority students and/or students from low-income families. Give a brief description of how the proposed plan was developed. Provide justification for this institution as the appropriate site for the Center.
- Project Objectives, Strategy, and Activities: Describe project objectives, their relevance to stated Program objectives, and the proposed strategy for accomplishing them. Discuss the activities which will collectively comprise the project plan. For each activity, indicate (a) the appropriateness for undertaking it, (b) how it contributes to attaining project objectives, and (c) the relation of other components of the plan.
- Organization/Management and Work Monitoring/Evaluation Plan: Describe briefly how the project will be organized and managed including a summary description of relevant skills of key personnel involved in the project. Include a timetable giving major milestones envisioned for the project as well as a procedure for monitoring project progress. Outline an evaluation plan for determining whether project objectives are being accomplished.
- Expected Outcomes: Describe the overall expected outcomes of the project and its potential impact upon the institution, the student groups to be served, and the nearby community.
- Plan for Continuation: Discuss a general plan for integrating project activities of a continuing nature into the institution's educational program and budget after Foundation support ceases.
- Curriculum Vitae for Key Project Personnel should be appended to this Narrative.

V. LOCAL REVIEW STATEMENT

A local review statement signed by the chief executive officer of the Institution must be appended to the proposal. This statement should indicate how the proposed project relates to the institution's general support for the proposed effort and its willingness to provide the necessary institutional resources for successful proposal implementation. This statement must clearly indicate the institution's willingness to cooperate in special monitoring requirements necessary in a project from which regular feedback must be obtained for future program planning. See page 13 for discussion of NSF monitoring and evaluation of the project.

In the case of a proposal submitted by a group of institutions, a local review statement must be included from each of the participating institutions.

Materials Required

Fifteen (15) copies of the proposal (including the Signature Copy) along with three (3) copies of the catalog of the graduate institution(s) involved in the proposal are required.

Proposals and catalogs should be mailed in a single package to:
- Central Processing Section for Resource Center in Science and Engineering Program, Division of Science Education Resources, Improvement, National Science Foundation, Washington, D.C. 20550

Each copy of a proposal should be on standard (8 1/2" x 11") paper, printed on one side only, and stapled only in the inner left hand corner with no covering or binding material.

To facilitate prompt acknowledgment of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage One initial proposals from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Signature Copy of the Cover Sheet.

Receipt Date and Projected Notification Date

All proposals must be received in the Foundation by close of business on February 17, 1978. No exceptions will be made to this requirement. Proposers will be notified of the outcome of the proposal review process about mid-March, 1978. Prior to this notification, no information can be given on the probable outcome of any proposal.

VI. PREPARATION AND SUBMISSION OF FINAL PROPOSALS—STAGE TWO

Final proposals will be accepted from the institutions submitting the six ranking proposals in Stage One. They are expected to be revisions of the proposals originally submitted, based upon reviewer and staff comments. General differences between initial proposals and final proposals are discussed on page 6.

While final proposals are revisions, they must be self-contained since they will be the subjects of a separate review.

Proposal Format and Content

Final proposals must contain the following in the order listed:
- Cover Sheet for Final Proposals
- Budget Sheet, NSF Form 1030
- Budget Details and Justification
- Institutional Data Sheet
- Information on Current or Proposed Projects
- Summary Information on Previous NSF Awards
- Abstract
- Narrative

Curriculum Vitae of Key Project Personnel and Consultants:
- Local Review Statement

Forms for the Cover Sheet, Proposal Budget Sheet (NSF Form 1030) and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of final proposals.

Budget Details and Justification

Immediately following the Budget Sheet, details and justification must be provided for each major budget category.

Information on Current or Proposed Projects

Each proposal must list all current projects, in addition to the proposed project to which the senior personnel have committed a portion of their time, whether or not salary for the person involved is included in the budgets of the various projects. This information should include the titles and dates of current contracts, grants, and commitments, annual budget levels, and the person-months devoted to each project by each of the senior personnel.

The proposal must also provide analogous information for all other proposed projects which are being considered by, or which will be submitted in the near future to, other possible sponsors including other Foundation programs. Concurrent submission of a proposal to other organizations will not prejudice its review by the Foundation.

Summary Information on Previous NSF Awards

An institution, whether submitting an individual proposal or participating in a proposal submitted by a group of institutions, that has received any previous grant of more than $100,000 from the National Science Foundation within the last three years must prepare a brief summary statement containing the following information for each award:

A. Grant number, title, date, and amount.
B. Summary of objectives and activities.
C. If any of these awards relate specifically to minority students or students from low-income families, then evidence of success in attaining the objectives of each such award should be given.

Abstract

The Abstract, of no more than two pages in length, should present a synopsis of the proposed plan for the establishment of the Resource Center. If the proposed project is funded, the Abstract will be available to the public. The Abstract should therefore be written in language which can be understood by the general public.

Narrative

The Narrative should be no more than 50 pages in length. Specifically, each of the topics discussed in the Narrative of initial proposals from Stage One and described on page 6 should be addressed in the proposal. Major questions or deficiencies of the initial proposal which were identified in the review process should be addressed under the appropriate Narrative topic.
NOTICES

Curriculum Vitae

Curriculum Vitae of Key Personnel and Consultants should be appended to the Narrative.

Local Review Statement

A Local Review Statement as described on page 6 must be included for the final proposal.

Materials Required

Fifteen (15) copies of the final proposal (including the Signature Copy) are required. Proposals should be mailed in a single package to:

Central Processing Section for Resource Center for Science and Engineering Programs, Division of Science Education Resources Improvements, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8½ by 11”) paper, printed on one side only, and stapled only in the upper left hand corner with no covering or binding material.

To facilitate prompt acknowledgement of the arrival of the package at its destination, the proposer should cut out the two postcards from the front of this Guide, place them in the envelope with the proposal, and then mail the package to the Central Processing Section. The date of receipt and an assigned proposal number will be stamped on the card before it is returned.

To identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Cover Sheet of the Signature Copy. When the packages arrive, the date of receipt and an assigned proposal number will be stamped on the card before it is returned so that thereafter the proposer and the Foundation may refer to this proposal number in correspondence about the proposal.

Receipt Date and Projected Award Date

All final proposals must be received in the Foundation by close of business on May 19, 1978. No exceptions will be made to this requirement. The projected Award Date will be in early September, 1978.

Proposers should submit written notification of any developments, following submission of the proposal, that might significantly affect the proposed plan. The Program staff will contact proposers if additional information is required. All final decisions will be announced by written notification to the project director and to officials of the proposing Institution. Prior to this notification, no information can be given on the probability of support for any proposal.

VI. EVALUATION CRITERIA AND PROCEDURE

The excellence of Foundation supported activities is heavily dependent upon advice received from the scientific and educational communities. Proposals will be reviewed competitively at each stage by panels which include representation of minority scientists and educators and other persons knowledgeable of minority or low-income communities to be served as well as by Foundation Staff. All proposals will be examined to determine the applicant’s eligibility for participation in the Program on the basis of the criteria listed on page 3.

At each stage, proposals will be evaluated according to the following criteria:

Goncurrence with Program Goals. How relevant are the objectives of the proposed project to stated program goals?

Demonstrated Commitment to Encouraging and Assisting Minority Students of Students from Low-Income Families, or Both. What is the institution’s past record (recruitment, retention, number of graduates) regarding such students? Provision of role models as reflected in past record (hiring, retention, promotion, tenure) with respect to minority faculty? Support facilities (counseling, financial aid, tutorial assistance)?

Financing (institutional funding vs. external funding) of programs for minority students from low-income families? What are its future plans with respect to all of the above? Institution’s Potential as the Center Location. Has the proposing institution identified significant ways in which it would be able to serve as a resource in science and engineering to nearby population centers of minority groups or low-income families and to neighboring pre-college and undergraduate institutions with substantial enrollments of students from minority groups of low-income families? Has the institution made a compelling case for why it should be best suited to serve as the Center site? Is there a significant indication of Institutional commitment for the proposal?

Appropriateness and Adequacy of the Plan for the Proposed Objectives. How appropriate are the proposed activities to the proposed objectives? Is the proposed plan likely to achieve the stated objectives?

 Adequacy of Organization/Management and Work/Monitoring/Evaluation Plan. Are the skills and experience of key project personnel appropriate for the implementation of the proposed project? Do the teaching and administrative arrangements made for project personnel provide with adequate time to devote to the project? Is the time schedule described in the proposal appropriate? Are the milestones listed realistic? Is the described monitoring/evaluation plan acceptable?

Impact Potential of Project on the Institution or Nearby Minority and/or Low-Income Community. Is the likely gain by the institution and the nearby minority community or community of low-income families from the implementation of the proposed project substantial?

Overall Scientific and Educational Value of the Project. Do the approaches proposed reasonably reflect what is known to be effective in science education? Are the approaches appropriate to the needs of the student populations to be served? Is there potential transferability of the approaches to other institutions? Are the proposed activities in basic research reasonable and appropriate to the institutional setting?

Panelists will be instructed to place greater emphasis upon the following:

The Proposed Objectives and Activities of the Plan.

Demonstrated Commitment (past, present, and projected) to Encouraging and Assisting Minority Students or Students From Low-Income Families.

Institution’s Potential as the Resource Center Location.

Impact Potential of Project on the Institution and the Nearby Minority and/or Low-Income Community.

Six applicants will be invited to submit revised proposals for review in the second stage of the Resource Center selection process. In determining which proposers will participate in the second stage, selection will be made in merit order. In cases of proposals with substantially equal merit, as determined by the merit review process, use may be made of other criteria such as geographical or disciplinary distribution of funds, distribution of awards among appropriate types of institutions, or other criteria determined to be consistent with Foundation policy and legislative intent.

Pre-Award Site Visits

It is expected that a five member team composed of Foundation Staff will make two-day site visits to each of the three top applicants resulting from the Stage Two review process. These visits will be prepared for the purpose of consulting with proposers about Faculty, Institutional officials, faculty, and other appropriate persons regarding the quality of the proposal, the appropriateness of the site and the probability of support for any proposal.

Specific exclusions exist for requesting Foundation support. NSF Funds will not be provided for:

Student scholarships or fellowships (but student wages for special activities in the project are permitted as are student research assistantships).

Augmenting the salary rate for faculty members pursuing regularly assigned duties.

Staff salaries, renovation, etc. should comprise more than 35 percent of the total support requested.

NSF Monitoring and Evaluation of Resource Center Award

Proposers should be aware that the Foundation shall monitor and evaluate the Resource Center project. Thus proposers should be prepared to cooperate with evaluators eventually retained by the Foundation as well as to cooperate in any special monitoring requirements which might be established.
### INSTITUTIONAL DATA (Required of Initial and Final Proposals)

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<tr>
<th>NAME OF INSTITUTION</th>
<th><strong>MINORITY</strong> DATA</th>
<th>**DATA ** ON STUDENTS FROM LOW-INCOME FAMILIES NOT INCLUDED IN MINORITY DATA</th>
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<td>9. No. of Library Volumes</td>
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*See Footnote on Page 3 for definition of "Minority"
(This section should be completed only if student group to be served consists primarily of minority students)

**See Footnote on Page 3 for definition of low-income families
(This section should be completed only if student group to be served consists primarily of non-minority students from low-income families)
[7590-01]  
**NUCLEAR REGULATORY COMMISSION**  
[Docket No. 50-313]  
**ARKANSAS POWER AND LIGHT CO.**  
Issuance of Amendment to Facility Operating License  
The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Co. (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One—Unit No. 1 (the facility) located in Pope County, Ark. The amendment is effective as of its date of issuance. 
The amendment modified the Technical Specification pressure-temperature limit curves for hydrostatic test, normal heatup, and normal cooldown, as required by Technical Specification 3.1.2.7 and as based upon analysis of surveillance capsule ANI-E, which was withdrawn from the Arkansas Nuclear One—Unit 1 reactor vessel.  
The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the following proceeding:  
**GENERAL ELECTRIC CO.**  
[GE MORRIS OPERATION]  
[Material License No. SNM-1256]  
This action is in reference to a notice published by the Commission on August 18, 1977, in the Federal Register (42 FR 41675) entitled “Consideration of Proposed Modification to GE Morris Operation Fuel Storage Facility”.  
The number of the Board and their addresses are as follows:  
Andrew C. Goodhope, Esq., Chairman, 3320 Estelle Terrace, Wheaton, Md. 20906.  
Dr. Linda W. Little, Member, Research Triangle Institute, 12194, Research Triangle Park, N.C. 27709.  
Dr. Forrest J. Hemick, Member, 305 E. Hamilton Avenue, State College, Pa. 16801.  
Dated at Bethesda, Md., this 26th day of September 1977.  

**JAMES B. YORE,**  
Chairman, Atomic Safety and Licensing Board Panel.  
[FR Doc. 77-28782 Filed 9-30-77; 8:45 am]  

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[7590-01]  
**NEBRASKA PUBLIC POWER DISTRICT**  
Issuance of Amendment to Facility Operating License  
The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of its date of issuance.  
The amendment consists of Technical Specification changes to incorporate approved exemptions from certain requirements of 10 CFR Part 50 Appendix J regarding main steam isolation valve leak rate testing, main steam line and feedwater line bellows leak rate testing, and extension of the test interval for Type C leak rate testing for the Cooper Nuclear Station.  
The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.  
The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.  
For further details with respect to this action, see (1) the requests for exemption dated September 10, 1976 and January 4, 1977, as supplemented by letter dated April 4, 1977, (2) Amendment No. 58 to License No. DPR-46, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Nebraska Public Power District, 118 15th Street, Auburn, Nebraska 68305. A single copy of Items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.  
Dated at Bethesda, Md., this 16th day of September, 1977.  

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For the Nuclear Regulatory Commission.  

**DON K. DAVIS,**  
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.  
[FR Doc. 77-28783 Filed 9-30-77; 8:45 am]  

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[7590-01]  
**OMAHA PUBLIC POWER DISTRICT**  
Issuance of Amendment to Facility Operating License and Negative Declaration  
The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-40, issued to Omaha Public Power District, which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1 located in Washington County, Neb. The amendment is effective as of its date of issuance.  
The amendment amends section 1-1 of the Environmental Technical Specifications to allow: (1) the allowable condenser cooling water temperature rise during winter months and (2) the limits on condenser cooling water temperature rise to be exceeded for brief periods when required by facility operation.  
The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Com-
mission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment dated August 13, 1976, as superseded in its entirety by letter dated March 14, 1977, (2) Amendment No. 30 to License No. DPR-40, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 23rd day of September, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of Operating Reactors.

[FR Doc.77-28783 Filed 9-30-77;8:45 am]

[7590-01]

[DOCKET NO. 59-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. Fitzpatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specification provisions with respect to the schedule for installation and removal of a neutron flux monitor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.51(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated August 31, 1977, (2) Amendment No. 29 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September 1977.

For the Nuclear Regulatory Commission.

Gerald B. Zwetslo,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-28783 Filed 9-30-77;8:45 am]
The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) the environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment submitted by letters dated May 16 and July 25, 1977, as supplemented, (2) the license's request dated July 7, 1977, as revised July 29, 1977, and supplemented, (3) Amendment No. 30 to License No. DPR-59, and (4) the Commission's request dated June 8, 1977, to the Atomic Energy Safety and Licensing Appeals Board dated May 20, 1977 (ALAB-399, 5 NRC 1186). The license now states that governmental approvals required to proceed with construction of a closed cycle cooling system have not been received pending further proceedings with respect to the Village of Buchanan Zoning

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license and rules and regulations of this amendment as amended (the Act). The Commission has determined that the issuance of this amendment will not result in any significant environmental impact appraisal need not, therefore, be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 25, 1977, and (2) Amendment No. 33 to License No. DPR-26. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

The amendment (1) authorized operation of the facility with additional 6 x 6 fuel assemblies as replacement for some of the existing fuel assemblies, (2) incorporated revised Minimum Critical Heat Flux Ratio limits that ensure conservative operation with respect to thermal hydraulics during Cycle 11, and (3) incorporated new Maximum Average Planar Linear Heat Generation Rate limits to assure the reactor is operated so as to continue to meet the emergency core cooling system performance criteria.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license and related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Notice is hereby given that, in accordance with the Appeal Board's order of September 23, 1977, oral arguments on the ruling referred to by the Appeal Board's order of April 20, 1977, is calendared for 10 a.m., Wednesday, October 26, 1977, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Md.

The amendment (1) authorized operation of the facility with additional 6 x 6 fuel assemblies as replacement for some of the existing fuel assemblies, (2) incorporated revised Minimum Critical Heat Flux Ratio limits that ensure conservative operation with respect to thermal hydraulics during Cycle 11, and (3) incorporated new Maximum Average Planar Linear Heat Generation Rate limits to assure the reactor is operated so as to continue to meet the emergency core cooling system performance criteria.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has determined that the issuance of this amendment will not result in any significant environmental impact appraisal need not, therefore, be prepared in connection with issuance of this amendment.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) the environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 11, 1977, and supplements thereto dated May 23, August 3, and September 8 and 16, 1977, (2) Amendment No. 21 to License No. DPR-3, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Notice is hereby given that, in accordance with the Appeal Board's order of September 23, 1977, oral arguments on the ruling referred to by the Appeal Board's order of April 20, 1977, is calendared for 10 a.m., Wednesday, October 26, 1977, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Md.

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The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has determined that the issuance of this amendment will not result in any significant environmental impact appraisal need not, therefore, be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 25, 1977, and (2) Amendment No. 33 to License No. DPR-26. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact appraisal need not, therefore, be prepared in connection with issuance of this amendment.

The amendment (1) authorized operation of the facility with additional 6 x 6 fuel assemblies as replacement for some of the existing fuel assemblies, (2) incorporated revised Minimum Critical Heat Flux Ratio limits that ensure conservative operation with respect to thermal hydraulics during Cycle 11, and (3) incorporated new Maximum Average Planar Linear Heat Generation Rate limits to assure the reactor is operated so as to continue to meet the emergency core cooling system performance criteria.
NOTICES

[7590–01] [Docket No. 40-8102]
EXXON CO., U. S. A.; HIGHLAND URANIUM MILL
Availability of Applicant's Environmental Report
Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Exxon Co., U.S.A. has filed an environmental report in support of their application for a source material license for the solution mining of uranium at the Highland uranium milling and mining operation site located in Converse County, Wyo. The report, which discusses environmental considerations related to the proposed solution mining operation is available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. 20555.Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.

[7590–01] [Docket No. 59-271]
VERMONT YANK EE NUCLEAR POWER CORP., (VERMONT YANK EE NUCLEAR POWER STATION) (SPENT FUEL PROCESSING) (Filing 2-80)
Assignment of Atomic Safety and Licensing Appeal Board
Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this (spent fuel) proceeding:
Alan S. Rosenthal, Chairman; Dr. John H. Buck, Dr. W. Reed Johnson.
MARGARET E. DU FLO
Secretary to the Appeal Board.
[FR Doc. 77-28954 Filed 9-30-77; 8:45 am]

[7590–01] [Docket No. 70-45]
ATOMICS INTERNATIONAL NUCLEAR FUEL FABRICATION FACILITIES
Negative Declaration Regarding Renewal of License No. SNM-21
The U.S. Nuclear Regulatory Commission (the Commission) has issued a renewal of Special Nuclear Material License No. SNM-21 for the continued operation of the Atomics International Nuclear Fuel Fabrication Facilities at Los Angeles, Calif.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the renewal of License No. SNM-21. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal is not warranted because there will be no significant environmental impact attributable to the action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street NW, Washington, D.C.

Dated at Silver Spring, Md., this 29th day of September, 1977.
For the Nuclear Regulatory Commission
[FR Doc.77-28951 Filed 9-30-77; 8:45 am]

[7590–01] ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ENVIRONMENTAL SUBCOMMITTEE Meeting
In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2223b.), the ACRS Environmental Subcommitteee will hold an open meeting on October 20, 1977 in Room 1126, 1717 H St NW, Washington, D.C. 20555. The purpose of this meeting is to review the reports submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the Federal Register.

Dated at Silver Spring, Maryland, this 29th day of September, 1977.
For the Nuclear Regulatory Commission.
LELAND C. ROUSE, Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.
[FR Doc. 77-28952 Filed 9-30-77; 8:45 am]
NOTICES

Questions should be addressed to the Information Systems Policy Division (202-395-4814).

WAYNE G. GRANQUIST,
Associate Director for Management and Regulatory Policy.

Attachment.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
WASHINGTON, D.C.

CIRCULAR NO. A-71—TRANSMITTAL MEMORANDUM NO. 1

To: The Heads of executive departments and establishments

Subject: Proposed policy for the security of Federal automated information systems

1. Purpose: This Transmittal Memorandum promulgates policy and responsibilities for the development and implementation of computer security programs by executive branch departments and agencies.

2. Background. Increasing use of computer and communications technology to improve the effectiveness of governmental programs has introduced a variety of new management problems. Many public concerns have been raised in regard to the risks associated with automated processing of personal, proprietary or other sensitive data. Problems have been encountered in the misuse of computer and communications technology to perpetrate crime. In other cases, inadequate administrative practices along with poorly designed computer systems have resulted in improper payments, unnecessary purchases or other improper actions. The policies and responsibilities for computer security established by this Transmittal Memorandum supplement those currently contained in OMB Circular No. A-71.

3. Responsibility of the Heads of Executive Agencies. The head of each executive branch department and agency is responsible for assuring an adequate level of security for all agency data whether processed in-house or commercially. This includes responsibility for the establishment of physical, administrative and technical safeguards required to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as national security data. It also includes responsibility for assuring that automated processes operate effectively and accurately. In fulfilling this responsibility each agency head shall establish policies and procedures to assign responsibility for the development, implementation, and operation of an agency computer security program. The agency's computer security program shall be consistent with all Federal policies, procedures, standards and guidelines issued by the Office of Management and Budget, the General Services Administration, the Department of Commerce, and the Civil Service Commission. In consideration of problems which have been identified in relation to existing practices, each agency's computer security program shall at a minimum include:

a. Assign responsibility for the security of each computer installation operated by the agency, including installations operated on behalf of the agency (e.g., government-owned contractor operated facilities), to a management official knowledgeable in data processing and security matters.

b. Establish personnel security policies for screening all individuals participating in the design, operation or maintenance of Federal computer systems or having access to data in Federal computer systems. These policies should include, as appropriate, requirements for background investigation of Federal and contractor personnel. Personnel security policies for Federal employees shall be in accordance with policies issued by the Civil Service Commission.

c. Establish a management control process to assure that appropriate administrative, physical and technical safeguards are established for all new computer applications. While this control process should apply to all new computer applications, particular emphasis should be placed on computer applications intended to be used to issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention (so-called automated decision-making systems). The management control process shall, at a minimum, include policies and responsibilities for:

(1) Defining and approving security specifications for all new computer applications and modifications to existing applications prior to programming or changes. The views and recommendations of the computer user organization, the computer installation responsible for the security of the computer installation shall be sought and considered prior to the approval of any security specifications for the application.

(2) Conducting and approving design reviews and system tests of new or changed computer applications prior to using them operationally. The objective of the design reviews should be to ascertain that the proposed design meets the approved security specifications. The objective of the system tests should be to verify that the planned administrative, physical and technical security requirements are operationally adequate prior to the use of the system. The results of the design review and system test shall be fully documented and maintained as a part of the official records of the agency. Upon completion of the system test, an official of the agency shall certify that the system meets the documented and approved system security specifications, and that the results of the test demonstrate that the security provisions are adequate for the application.

d. Establish and agency program for conducting periodic audits and recertification of the adequacy of the security of any computer application which processes personal, proprietary or other sensitive data, or which issues checks, requisitions supplies or performs similar functions without human intervention (automated decision-making applications). This audit and recertification process is to be conducted by technically qualified professionals in an organization independent of the user organization and computer facility manager. Periodic audits and recertification shall be performed at time intervals determined by the agency, commensurate with the volume of information processed and the risk and magnitude of potential for loss or harm that could result from improper access, use or modification of the information. Audits shall be conducted at least every three years.

e. Establish polices and responsibilities to assure that appropriate security requirements are included in specifications for the acquisition or operation of computer facilities, equipment, software, or related services.

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whether produced by the agency or by the General Services Administration. Specific security requirements shall be reviewed and approved by the management official assigned responsibility for the computer installation. Prior to the use of a computer installation, all individuals must certify that they are familiar with the security requirements and that they have been authorized to use the computer. The principal contractor of the computer installation shall be responsible for certifying the security requirements of any related procurement(s). The principal contractor of the computer installation shall be responsible for certifying that the computer is properly set up and operated in accordance with the security requirements.

8. Design responsibility for the conduct of periodic risk analyses for each computer installation shall be performed by each agency. Each agency shall ensure that its personnel are trained in the use of risk analysis techniques. Agencies shall perform periodic risk analyses for each computer installation. The results of each risk analysis shall be submitted to the Department of Commerce. The procedures for granting waivers for risk analyses shall be established by the Department of Commerce. Agencies may request to have waivers granted for risk analyses. A waiver may be granted for a risk analysis if the agency demonstrates that it has conducted a thorough review of the risk analysis and that the waiver is justified.

9. Responsibility of the Department of Commerce. The Department of Commerce shall establishminimum requirements for each computer installation. Each agency shall develop minimum requirements for its computer installations. The Department of Commerce shall review and approve the minimum requirements for each agency. The requirements shall be consistent with the minimum requirements established by the Department of Commerce.

10. Responsibility of the Civil Service Commission. The Civil Service Commission shall establish guidelines for the certification of computer security policies. The Civil Service Commission shall also establish guidelines for the certification of computer security policies. Each agency shall develop computer security policies that are consistent with these guidelines. The policies shall be submitted to the Civil Service Commission for review and approval.

11. Reporting. Each agency shall report to the Civil Service Commission on the implementation of the minimum requirements and the guidelines established by the Civil Service Commission. The report shall include the following information:

   a. Whether the standard is mandatory or voluntary.
   b. Specific implementation actions taken to implement the standards.
   c. The time at which implementation is required.
   d. A process for monitoring implementation of the standards.
   e. Requirements for use of the standard in specifications for computer hardware, software, and related services.
   f. Requirements for use of the standard in specifications for the acquisition or construction of new computer facilities.
   g. The conditions or criteria under which waivers to the standards may be granted.
   h. The procedures for granting waivers.

12. Responsibility of the General Services Administration. The Administrator of the General Services Administration shall:

   a. Issue policies and regulations for the physical security of computer rooms. These policies and regulations shall be consistent with the security requirements of the minimum requirements and the guidelines established by the Department of Commerce.
   b. Assure that agency procurement requests for computers, software, and related services include security requirements which have been certified by a responsible agency official. Delegations of procurement authority to agencies by the General Services Administration under mandatory programs, dollar threshold delegations, certification programs, or other so-called blanket delegations include requirements for agency specifications and certification of security requirements. Other delegations of procurement authority shall require specific agency certification of security requirements as a part of the agency request for delegation of procurement authority. The principal contractor of the computer installation shall be responsible for certifying the security requirements for any related procurement(s), and any other related services procured by the General Services Administration meet the security requirements established by the principal contractor of the computer installation. The principal contractor of the computer installation shall be responsible for certifying that the computer is properly set up and operated in accordance with the security requirements.

13. Risk analysis. The Civil Service Commission has developed guidelines for the conduct of periodic risk analyses for each computer installation. Each agency shall perform periodic risk analyses for each computer installation. The results of each risk analysis shall be submitted to the Civil Service Commission. The guidelines for the conduct of periodic risk analyses shall be reviewed and approved by the Civil Service Commission.

14. Certification. Each agency shall certify to the Department of Commerce that it has implemented the minimum requirements and the guidelines established by the Civil Service Commission. The certification shall be submitted to the Department of Commerce.

15. Waivers. Each agency may request to have waivers granted for the minimum requirements and the guidelines established by the Civil Service Commission. A waiver may be granted for the minimum requirements and the guidelines established by the Civil Service Commission if the agency demonstrates that it has conducted a thorough review of the requirements and that the waiver is justified.

This notice is issued under 13 CFR 120.3 (b) (r).
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II. SUPPLEMENTAL GRANTS

A. In the event that FHWA allocates funds to a project as part of its grant approval process for the construction of the type of project contemplated by the Act, which project is apparently otherwise eligible for funding under the Act, the Eligible Applicant may request supplemental grant funds from EDA.

B. On request of the Eligible Applicant through the State highway agency, FHWA shall, within a period of 15 days from the receipt of the request, provide the Eligible Applicant with a Certificate, substantially in the form attached hereeto and made Exhibit A, which attests to compliance with certain FHWA and EDA requirements.

III. GENERAL PROCEDURES FOR SUPPLEMENTAL GRANTS

A. EDA will, upon acceptance of the Supplemental Grant by the Eligible Applicant, transfer funds to the FHWA by Form SF-1151 in accordance with the requirements of EDA Directive No. 406-1 (Accounting Systems Manual), a copy of which is attached hereeto and marked Exhibit B.

B. Within a reasonable period of time after final inspection and acceptance of the project, FHWA will advise EDA of project completion.

C. After the Supplemental Grant has been accepted, FHWA will assume full responsibility for the supervision of the project and disbursement of the grant funds.

D. The FHWA will comply with the reporting requirements for transferred funds as outlined in Exhibit B.

E. Disbursement of the Supplemental Grant will be in proportion to disbursements of all other funds available for the project and adequate safeguards will be established to eliminate the possibility of the Supplemental Grant exceeding the authorized percentage relationship to the total cost of the project.

F. If final eligible project costs are less than the estimated costs at the time of project approval, proportionate reductions will be made in the amount of the Supplemental Grant under this Act. However, any available supplemental grant funds resulting from such a shortfall in construction costs may be utilized for additional project construction, if approved by EDA. If no further construction is requested or if a request is not approved by EDA, such funds shall be promptly returned to EDA for deobligation, or such other action which EDA considers appropriate.

IV. DIRECT EDA GRANTS

In the case of a request for a direct grant, FHWA will cooperate with EDA by providing advisory assistance upon request from EDA.

V. PENDING APPLICATIONS WITH FEDERAL HIGHWAY ADMINISTRATION (FHWA)

A. In the event that an Eligible Applicant requests authorization, through the State highway agency, from FHWA for the construction of the type of project contemplated by the Act, and FHWA lacks available funding for such project, yet the project is otherwise eligible for funding under the Act, the Eligible Applicant may apply for assistance from EDA under the Act.

B. On request of the Eligible Applicant, FHWA shall within a period of 30 days of receipt of the request, provide the Eligible Applicant with a Certificate, substantially in the form of Exhibit B*, which will certify to EDA regarding the following matters:

1. That the proposed project is in conformity with FHWA general design, program, technical, statutory and regulatory standards.

2. That there are no unusual aspects of the particular project not noted in the Certificate. In connection with (1) above, that should be specifically considered by EDA in approving a grant to the Eligible Applicant.

3. That there will be provided with the Certificate a copy of any environmental analysis or environmental impact statement that has been prepared in connection with this proposed project, and

4. That the pending application of the Eligible Applicant has been withdrawn, without prejudice, and will not be further processed while it is under consideration by EDA.

VI. ADDITIONAL FUNDING PROGRAMS

In the event that there are future programs providing funding of facilities for which applications have already been received by EDA, but which applications either inadvertently did not include FHWA certification or such certification is not presently adequate in the opinion of EDA, FHWA agrees to provide the appropriate Regional Office of EDA with a Certificate pursuant to Section II or V hereof within 20 days of receipt of the Local Public Works Capital Development and Investment Program application from the FHWA Regional Office, if issuance of such a Certificate is appropriate. If a Certificate cannot be issued, FHWA will state the reasons for not issuing the Certificate.

*While the exhibits referred to are not being published they are available for inspection in the Office of Chief Counsel, FHWA.

EFFECTIVE DATE

The effective date of this Memorandum of Understanding shall be September 28, 1977.

For the Economic Development Administration, Department of Commerce.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

MEMORANDUM OF UNDERSTANDING BETWEEN THE ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE AND THE FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Memorandum of Understanding.

SUMMARY: This agreement is intended to facilitate the processing of direct or supplemental grant applications for road or highway projects under the Local Public Works Capital Development and Investment Act of 1976, 42 U.S.C. 6701 et seq., as amended. While the responsibilities of the Federal Highway Administration, Department of Transportation, with respect to this processing are delineated in the agreement, State and local governments must submit applications to the Economic Development Administration, Department of Commerce. FOR FURTHER INFORMATION CONTACT: Lawrence J. Roth, Office of the Chief Counsel (202-426-0754), Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday—Friday.

The Memorandum of Understanding as set forth below between the Economic Development Administration, Department of Commerce, and the Federal Highway Administration, Department of Transportation, is published as a matter of public record.

I. INTRODUCTION

The Local Public Works and Capital Development and Investment Act of 1976 (Act) 42 U.S.C. 6704 et seq., as amended by the Public Works Employment Act of 1977 (Pub. L. 95-28), authorizes the Secretary of Commerce, acting through the Economic Development Administration (EDA), to make direct grants to State or local governments (Eligible Applicant) and also to make grants supplementing other grant assistance received by an Eligible Applicant under any other Federal, State, or local law for local public works projects.

The Federal Highway Administration (FHWA), Department of Transportation, has authority to make grants for certain types of local public works projects, which projects could also be wholly funded or supplemented under the Act.

The FHWA and EDA wish to cooperate in order to facilitate the prompt and efficient delivery of the benefits conferred by the Act, and in furtherance of the intention, the parties hereby formalize this Memorandum of Understanding, which will establish certain procedures and agreements of the parties.

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For the Federal Highway Administration, Department of Transportation.

WILLIAM M. COX,
Federal Highway Administrator.
Issued on: September 21, 1977.
[FR Doc. 77-29003 Filed 9-30-77; 8:45 am]

[4810-22]
DEPARTMENT OF THE TREASURY
United States Customs Service
COLUMBUS, N. MEX., CUSTOMS PORT
OF ENTRY
Delay in Effective Date of Change in Hours of Service
AGENCY: United States Customs Service, Department of the Treasury.
ACTION: Notice of delay in effective date.
SUMMARY: This notice advises that the new hours of service, from midnight to 16 hours a day, effective October 17, 1977, to be announced in the Federal Register on September 30, 1977, will be delayed until October 31, 1977.
DATES: The new hours will be effective October 17, 1977.
FOR FURTHER INFORMATION CONTACT:
SUPPLEMENTAL INFORMATION: On September 15, 1977, the Customs Service published a notice in the Federal Register (42 FR 48439), announcing a reduction in the hours of service at the Customs port of entry at Columbus, Ohio, from the current 24 hours a day to 16 hours a day. This delay is being made in order to reduce the impact of the change in hours of service.

Dated: September 27, 1977.


[FR Doc. 77-29003 Filed 9-30-77; 8:45 am]

[4810-40]
Office of the Secretary
[Department circular, Public Debt Series—No. 23-77]
TREASURY NOTES OF NOVEMBER 15, 1982
Series F-1982
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 $2,500,000,000 of United States securities designated Treasury Notes of November 15, 1982, Series F-1982 (CUSIP No. 012827 HB 1). 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 the Federal Reserve System and international monetary authorities.
1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States securities, the tender forms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular plus accrued interest from the last preceding interest payment date on the outstanding securities.
2. DESCRIPTION OF SECURITIES
2.1. The securities will be dated October 30, 1977, and will bear interest from that date, payable on a semiannual basis.
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 after the principal becomes payable. They will mature November 15, 1982, and will not be subject to call for redemption prior to maturity.
2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.
2.4. Eacer 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 non-registered 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, Wednesday, October 5, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 4, 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. Non-competitive 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. All bidders must certify that they have not made, and will not make any agreements for the sale or purchase of any securities of this issue prior to the...
deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications extended directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as leaders who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowing 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.

3.5. 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 plans and other defined benefit 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% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily marketable checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. 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 for the account of customers will be accepted to the extent required to obtain the amount offered. Tenders at the highest accepted price 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 3/4 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 $8,750. That rate of interest will be paid on all the securities. Based on such interest rate, the price on the tendered amounts accepted 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 prices 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.

3.7. 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 Monday, October 17, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Secured delivery will be made at the expense and risk of the holder.

5.2. 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 certificates are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates shall be returned at the risk and expense of the holder.

5.3. Delivery of securities in registered form will be made at the time and place of registration as stated in the applicable Federal Reserve Bank.


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, and to enter such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to act as registrars and pay agents 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.

David Moss
Fiscal Assistant Secretary.
[FR Doc.77-20083 Filed 9-28-77; 10:14 am]
under Section 210(a) of the Interstate Commerce Act, provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six copies of protests to an application may be filed with the field official name in the Faraman, Wisconsin, publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Faraman, Wisconsin, publication. One copy of the protest must be served on the Applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest will be governed by the completeness and pertinence of the protestant's information.

As except as otherwise specifically noted, each respondent states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 720 (Sub-No. 34'TA), filed September 13, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 257, Waunakee, Wis. 53597. Applicant's representative: Wayne Wilson, 329 W. Madison, Wis. 53707. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned vegetables, from Clintonville, Antigo, Cambria, and Markesan, Wis., to Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Virginia, Mississippi, Texas, Massachusetts, New York, Indiana, Missouri, Illinois, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fall River Canning Co., P.O. Box 58, Fall River, Wis. 53922, (Ruby S. Yohn). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 117 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 19553 (Sub-No. 38'TA), filed August 31, 1977. Applicant: KNOX MOTOR SERVICES, PO Box 39, Madison, Wis. 53705. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined in the Commission's Motor Carrier regulations requiring special equipment). Applicant requests authority to operate from, and between the following points, over irregular routes: Madison, Wis., to Alabama, Florida, Georgia, Kentucky, Illinois, Indiana, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: /.

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90 days of operating authority. Supporting shippers: There are approximately fifty-two (52) statements of supporting shippers attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

By MC No. 43039 (Sub-No. 469TA), filed September 12, 1977. Applicant: COMMERICAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 39725 Shacket Avenue, Madison Heights, Mich. 48071, and E. Phillips Malone, 3800 Frederic Street, Owensboro, Ky. 42301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Motor vehicles, except trailers, in initial movements, in truckaway service, from the plant sites of General Motors Corporation located at or near the following addresses, in Indiana, Michigan, and Ohio, for 180 days. Supporting shipper: Bancroft Bag Corp., located at or near Bedford, Ind., to Detroit, Mich., and the plantsite of General Motors Corporation and their respective commercial zones in Iowa and St. Louis and St. Louis County, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bancroft Bag Corp., P.O. Box 307, West Monroe, La., sends protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 911 Walnut Street, Kansas City, Mo. 64106.

By MC No. 120618 (Sub-No. 2TA), filed August 25, 1977. Applicant: SCHALLER TRUCKING CORP., 5700 West Minneapolis Street NW., Washington, D.C. 20006. Applicant's representative: John R. Bagilio, 1977 boasting 1977. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) Aluminum castings, from the plantsite of Central Foundry, a Division of General Motors Corp., located at or near Bedford, Ind., to Detroit, Mich., and the plantsite of General Motors Corporation and their subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich., and Cleveland, Dayton, and Moraine, Ohio; (b) scrap aluminum, from the plantsite of General Motors Corporation and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich., Lockport, N.Y.; and Cleveland, and Moraine, Ohio, and the plantsite of Harry Davis & Son, Inc., located at or near Toledo, Ohio; (c) to the plantsite of Central Foundry, located at or near Bedford, Ind.; the plantsite of Central Foundry, located at or near Bedford, Ind.; the plantsite of Barnet of Needmore, Inc., located at or near Needmore, Ind., and the plantsite of Buick Motor Division, located at or near Wabash, Ind.; (3) brake drums, in the rough, between the plantsite of Central Foundry, located at or near Bedford, Ind., and the plantsite of Buick Motor Division, located at or near Flint, Mich., and Chevrolet Motor Division, located at or near Buffalo, N.Y.; and (d) reusable containers, between the plantsite of Central Foundry, located at or near Bedford, Ind., and the plantsite of Central Foundry located at or near Bedford, Ind., for 180 days. Supporting shipper: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg.; and U.S. Courthouse, 46 East Ohio Street, Room 459, Indianapolis, Ind. 46204.

By MC No. 124078 (Sub-No. 747TA), filed September 13, 1977. Applicant: SCHWEMER TRUCKING CO., 611 South 28th St., Milwaukee, Wis. 53236. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cement, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Missouri Portland Cement Company, 7711 Carondelet Ave., St. Louis, Mo. 63105, J. A. Lynch). Send protests to: Cally Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

By MC No. 134004 (Sub-No. 7TA), filed September 12, 1977. Applicant: HEIGE'S SERVICE, INC., 2604 Nevada Ave., St. Paul, Minn. 55101. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages, and related advertising materials, premiums, and malt beverage dispensing equipment, when moving in mixed loads with malt beverages, from St. Paul, Minn., to Lansing, Ill., under a continuing contract or contracts with the Vierx Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Viero Corporation, 16750 Chicago Ave., Lakeside, Ill. 60456. Send protests to: MacL. Cheyney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

By MC No. 134638 (Sub-No. 1TA), filed September 12, 1977. Applicant: AMRAM ENTERPRISES, INC., 4523 Penn Avenue, Pittsburgh, Pa. 15234. Applicant's representative: Dr. Amram Onvundo (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Packages and parcels (not exceeding 100 lbs. in weight) of general commodities, between Pittsburgh, Pa., and points in Ohio, under a continuing contract or contracts with Cinemette Corp. of America and Kaufmann's Dept. Store, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Cinemette Corp. of America, 107 Sixth Street, Pittsburgh, Pa. 15229, Kaufmann's Dept. Store, 955 Reddadele Street, Pittsburgh, Pa. 15212. Send protests to: John J. England, District Su-
No. MC 134979 (Sub-No. 11TA), filed August 30, 1977. Applicant: DAGGETT TRUCK LINE, INC., Frasee, Minn. 56544. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Factory built fireplaces, factory built chimneys, (2) materials, parts and accessories for the commodities named in part (1) above, between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio and Dura-Vent Corp., at or near Redwood City, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) and (3) pipe, duct, fittings and accessories for air distribution systems and materials and supplies used in the manufacture and/or distribution thereof (except commodities in bulk), (4) parts and accessories for the commodities named in part (1) above, between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (5) pipe, duct, fittings and accessories for air distribution systems and materials and supplies used in the manufacture and/or distribution thereof (except commodities in bulk), (4) parts and accessories for the commodities named in part (1) above, between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) and (3) pipe, duct, fittings and accessories for air distribution systems and materials and supplies used in the manufacture and/or distribution thereof (except commodities in bulk), (4) parts and accessories for the commodities named in part (1) above, between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

No. MC 138036 (Sub-No. 10TA), filed August 25, 1977. Applicant: J & E, Inc., P.O. Box 286, Indianola, Iowa 50125. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by retail drug and variety stores, and equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), (2) parts and accessories for the facilities of Thrift Drug Division of J. C. Penney Co., Inc., at Atlanta Southern Industrial Park, Morrow (Clayton County), Ga., on the one hand, and, on the other, points in Oklahoma, under a continuing contract or contracts with Thrift Drug Division of J. C. Penney Company, Inc., at New York, N.Y., for 180 days. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by retail drug and variety stores, and equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), (2) parts and accessories for the facilities of Thrift Drug Division of J. C. Penney Company, Inc., at Atlanta Southern Industrial Park, Morrow (Clayton County), Ga., on the one hand, and, on the other, points in Oklahoma, under a continuing contract or contracts with Thrift Drug Division of J. C. Penney Company, Inc., at New York, N.Y., for 180 days. Applicant has also filed an underlying ETT seeking up to 90 days of operating authority. Supporting shipper: Meyers Chemicals, Inc., 4245 Union Rd., Buffalo, N.Y. 14225. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 142205 (Sub-No. 6TA), filed August 30, 1977. Applicant: LOWDOUN TRANSFER, INC., P.O. Box 703, Lebanon, Va. 24270. Applicant's representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Grafton, Md. 20736. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Custom upholstered furniture, from Sterling, Va., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas; and (2) returned or refactored upholstered furniture, and equipment, materials and supplies used in the manufacture of custom upholstered furniture, from the destination states listed above in (1) to Sterling, Va., under a continuing contract, or contracts, with Metro Manufacturing Co., for 180 days. Applicant has also filed an underlying ETT seeking up to 90 days of operating authority. Supporting shipper: Metro Manufacturing Co., P.O. Box 274, Hornson, Va. 24270. Send protests to: W. C. Herman, District Supervisor, Room 1413, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.
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Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and the District of Columbia (3), between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Chicago, Ill., on the one hand, and, in another place, in the States of Minnesota, Wisconsin, Iowa, Missouri, Ohio, Indiana, (4) (between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Chicago, Ill., and, on the other hand, and, on the other points in the States of Washington, Oregon, Arizona, Utah (5) between the warehousing distribution and manufacturing facilities of the Baxter Corp., Shelby, N.C., on the one hand, and, on the other points in the States of Florida, South Carolina, Georgia, Virginia, North Carolina, Alabama, Louisiana and Tennessee under a continuing contract or contracts with the Baxter Corp., Hawthorne, N.J. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): the Baxter Corp., P.O. Box 495, Hawthorne, N.J. 07507. Ampeo Packaging, Inc., 235 New York Avenue, Jersey City, N.J. 07307. Applicant's representative: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 142715 (Sub-No. 6-TA), filed September 27, 1977. Applicant: TRANSPORTATION, INC., 4 Kent Road, McMinnville, Oreg., 97128. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs and articles distributed by meat packing plants (except hides and commodities in bulk), from the plantsites of Geo. A. Hormel & Co., located at or near Madison, Wisconsin, restricted to product originating at the named origins and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 300, Austin, Minn. 55912. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 142838 (Sub-No. ITA), filed August 23, 1977. Applicant: SOUTH BAY TRUCK LINE, INC., 1040 Hermes Avenue, Hermosa Beach, Calif. 90254. Applicant's representative, Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif., on the one hand, and, on the other, sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Steel fence posts, scrap, and steel building materials, between McMinville, Ore., on the one hand, and, on the other, points in that part of the United States on west of a line beginning with the mouth of the Missis-
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[7035–01]

[Notice No. 524TA]

MOTOR CARRIER TEMPORARY AUTHORITY
APPLICATION

September 26, 1977.

The following are notices of filings of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than October 18, 1977. Each copy of the protest must be on the application, or its authorized representatives, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant must certify that the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specified noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 312TA), filed September 7, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Paul H. Jones, Secretary of the Detroit ICC Office, Bureau of Operations, Interstate Commerce Commission, 604 Federal Building and Court House Building, Nashville, Tenn. 37240; James H. Faus, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32203.

No. MC 19105 (Sub-No. 46TA), filed September 1, 1977. Applicant: FORBES TRANSFER CO., INC., P.O. Box 3544, Wilson, N.C. 27893. Applicant's representative: Paul H. Jones, 29729 Shackett Avenue, Madison Heights, Mich. 48071. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090; E. R. Wiseman, Director, Transportation Economics. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 28896, Raleigh, N.C. 27611.

No. MC 54398 (Sub-No. 406TA), filed September 9, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29729 Shackett Avenue, Madison Heights, Mich. 48071; E. Phillips Malone, 3600 Frederica Street, Owensboro, Ky. 42301. Applicant sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wood fiber mulch from Nash County, N.C., to points in the states of South Carolina, Georgia, Florida, West Virginia, Virginia, and Georgia, for 180 days. Supporting shipper(s): Southern Seeds, Inc., P.O. Box 303, Middlesex, N.C. 27857. Send protests to: Dr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 28896, Raleigh, N.C. 27611.

No. MC 51148 (Sub-No. 51TA), filed September 2, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54308. Applicant's representative: Neil A. DuJardin, P.O. Box 394, Green Bay, Wis. 54306. Applicant sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Gift cheese paks, from Marshfield, Wis., to points in Arizona, California, Colorado, New Mexico, Nevada, Oregon, and Washington, for 180 days. Supporting shipper(s): Flig's, Inc., 630 South Central Avenue, Marchfield, Wis. 54349 (James E. Coleman). Send protests to: Monica A. Bledsoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Court House Building, 617 East Wisconsin Avenue, Room 319, Milwaukee, Wis. 53202.

No. MC 53117 (Sub-No. 57TA), filed September 9, 1977. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, 101 East Excelsior, Winita, Okla. 74431. Applicant's representative: William L. Williamson, 280 National Foundation Life Building, 3355 Northwest 58th, Oklahoma City, Okla. 73112. Applicant sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Rubber, in bulk, in tank, return and rejected shipments from the abovenamed destination territory to the abovementioned origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Monica A. Bledsoe, Transportation Assistant, Interstate Commerce Commission, 500 Arch Street, Room 323, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 1033TA), filed September 9, 1977. Applicant: Mater-Mack, INC., Ten West Baltimore Avenue, Landowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., Vice President—Traffic (same as above). Applicant sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Biphosphon, in bulk, in tank or hopper type vehicles from the facilities of United Steel Steel Corp., 600 Grant Street, Pittsburgh, Pa., to all points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the abovementioned destination territory to the abovementioned origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Monica A. Bledsoe, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 323, Philadelphia, Pa. 19106.
to 90 days of operating authority. Supporting shipper(s): Chevron U.S.A., Inc., 575 Market Street, Room 2510, San Francisco, Calif. 94120. Send protests to: Monica A. Bladegett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Phila- adelphia, Pa. 19106.

No. MC 111045 (Sub-No. 147TA), filed September 8, 1977. Applicant: RED- WING CARRIERS, INC., P.O. Box 426, 7505 Palm River Road, Tampa, Fla. 33611. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Magnesium hydroxide and carbon carbonate (except in bulk, in tank vehicles), in vessels equipped with mechanical refrigeration, from Millsboro, Del., to San Antonio, Tex., for 180 days. Supporting shipper(s): William H. Rorer, Inc., Barcroft Co., 500 Virginia Drive, Fort Washington, Pa., 19034. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Texas 75242.

No. MC 111051 (Sub-No. 131TA), filed September 12, 1977. Applicant: TRAC- COLD EXPRESS, INC., P.O. Box 61223, D/FW Airport, Fort Worth, Tex. 76281. Applicant's representative: J. B. Stuart, P.O. Box 61223, D/FW Airport, Tex. 76281. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen pretzels, from the plant and/or storage facilities of United Products Co. at or near Smith- haven, N.Y., to Morris Ave., Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Milam E. Pedal, 2254 Gulf Gate Drive, Sarasota, Fla. 33551. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5616 D/FW Airport, 555 South Main Street, Cincinnati, Ohio. 45302.

No. MC 112378 (Sub-No. 2TA), filed September 12, 1977. Applicant: AMER- ICAN-WESTERN COMPANY, INC., P.O. Box 436, Dallas, Texas. 75235. Applicant's representative: Earl V. White, White & Southwell, 2400 SS, West Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cranes, and crane parts and accessories, between points in all States and the District of Columbia, excluding Alaska and Hawaii; from Canada through entry on the U.S.-Canada boundary, under a continuing contract, or contracts, with Morrow Crane Co., for 180 days. Supporting shipper(s): Morrow Crane Co., P.O. Box 3908, Seneca, Oreg. 97338. Send protests to: A. E. Odom, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 110 First Courthouse, 517 East Wisconsin Avenue, Portland, Oreg. 97304.

No. MC 124887 (Sub-No. 37TA), filed September 7, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 236, Altha, Fla., 32411. Applicant's representative: Sol H. Blackstone, Building, Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General cargo, from Chatham County, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper(s): Anderson Shipping Co., P.O. Box 9805, Savannah, Ga. 31402; D. J. Powers Co., Inc., P.O. Box 9239, Savannah, Ga. 31402; Georgia Ports Authority, 429 Channel Street N.E., Atlanta, Ga. 30302; and S. James Co., P.O. Box 2166, Savannah, Ga. 31402. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 3048, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 124898 (Sub-No. 25TA), filed September 8, 1977. Applicant: WILLIAM- SON TRUCK LINE, INC., Thorne & Rail- son Streets, P.O. Box 5485, Wilson, N.C. 27893. Applicant's representative: O. D. Hands, Suite 200, 205 West Teouhy Avenue, Park Ridge, Ill. 60068. Authority

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sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from the facilities of Banquet Foods Corp., located at Carrollton, Macon, and Marshall, Mo., to points in North Carolina and Chapel- 

sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from the facilities of Banquet Foods Corp., located at Carrollton, Macon, and Marshall, Mo., to points in North Carolina and Chapel-

sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from the facilities of Banquet Foods Corp., located at Carrollton, Macon, and Marshall, Mo., to points in North Carolina and Chapel-
seeking up to 90 days of operating authority. Supporting shipper(s): Florida Tile-Sikes Corp., P.O. Box 81, Lawrencetown, NS, R2T 2L9. Applicant: DONNA M. JONES (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Beef, from Amarillo, Tex., to Baton Rouge, La., restricted to a transportation service performed under a continuing contract, or for fixed routes requiring special equipment, with associated Grocers, Inc., for 180 days of operating authority. 


No. MC 143614 (Sub-No. E37) (correction), filed June 4, 1974, published in the Federal Register issue of July 9, 1974, and republished, as corrected, this issue. Applicant's representative: WILLIAM J. RORISON (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment, is performed by the consignor or consignee, or both, between those points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to Junction New Jersey Highway 510, thence along New Jersey Highway 510 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to Junction New Jersey Highway 28, thence along New Jersey Highway 28 to junction New Jersey-New York State line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the United States-Canada International boundary line, and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to Junction Vermont Highway 108, thence along Vermont Highway 108 to Junction Vermont Highway 109, thence along Vermont Highway 109 to junction Vermont Highway 151A, thence along Vermont Highway 151A to Junction Vermont Highway 16, thence along Vermont Highway 16 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to Junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 114, thence along Vermont Highway 114 to junction Vermont Highway 107, thence along Vermont Highway 107 to Junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 105, thence along Vermont Highway 105 to Junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line, those in New Hampshire on and northeast of a line beginning at the New Hampshire-State New York State line, and extending along New Hampshire Highway 12 to junction New Hampshire Highway 120, thence along New Hampshire Highway 120 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to Junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, and those in Rhode Island on and east of a line beginning at the New Hampshire-Massachusetts State line, and extending along New Hampshire Highway 12 to junction New Hampshire Highway 6. The purpose of this filing is to eliminate the gateways of New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 10 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5. N.O.: The purpose of this correction is to state the correct gateway to be eliminated.

By the Commission.

H. G. HOMME, Jr., Acting Secretary.
['[FR Doc.77-28022 Filed 9-30-77: 8:45 am]


The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving energy and other resources have been filed with the Interstate Commerce Commission on or before October 13, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of proposals under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number. 

By the Commission.

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points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this filing is to correct the gateway territorial description.

No. MC 60014 (Sub-No. E46) (correction), filed June 4, 1974, published in the Federal Register issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroveville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101; thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to junction Rhode Island Highway 103, thence along Rhode Island 102 to junction U.S. Highway 1–A, thence along U.S. Highway 1–A to Rhode Island Sound, and those in Massachusetts on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 25 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this filing is to correct the gateway territorial description.

No. MC 60014 (Sub-No. E45) (correction), filed June 4, 1974, published in the Federal Register issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroveville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., and points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E49) (correction), filed June 4, 1974, published in the Federal Register issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroveville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, which by reason of size or weight require the use of special equipment, from points in New York to points in Kentucky, Mississippi, Alabama, those in Tennessee on and west of the Tennessee State line, and extending along Tennessee Highway 33 to junction Tennessee Highway 31, thence along Tennessee Highway 31 to junction U.S. Highway 11W, thence along U.S. Highway 11W to junction U.S. Highway 25E, thence along U.S. Highway 25E to junction Tennessee Highway 23, thence along Tennessee Highway 23 to junction Tennessee Highway 11W, thence along Tennessee Highway 11W to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

Note.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E52) (correction), filed June 4, 1974, published in the Federal Register issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroveville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in New York on and south of a line beginning at Lake Erie and extending westward along U.S. Highway 12, thence along New York Highway 12 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 205, thence along New York Highway 205 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 195, thence along New York Highway 195 to junction U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, to those points in Maine on and east of a line beginning at the United States-Canada International boundary line and extending along Maine Highway 11 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction U.S. Alternate Highway 1, thence along U.S. Alternate Highway 1 to junction U.S. Highway 1, thence along U.S. Highway 1 to Penobscot Bay. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., and points in Massachusetts on and east of U.S. Highway 5, and points in Massachusetts within 30 miles of Boston.

Note.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E53) (correction), filed June 4, 1974, published in the Federal Register issue of July 15, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroveville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Michigan on and north of a line beginning at Lake Huron line and extend-
ing along Michigan Highway 21 to junction Michigan Highway 78, thence along Michigan Highway 78 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Michigan Highway 15, thence along Michigan Highway 12 to junction Michigan Highway 66, thence along Michigan Highway 66 to the Michigan-Lake County line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the Vermont-Massachusetts state line, thence along Vermont Highway 4, thence along Vermont Highway 102, thence along Vermont Highway 102 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this correction is to state the correct territorial description. No. MC 60014 (Sub-No. EB1) (correction), filed June 4, 1974, published in the Federal Register Issue of October 21, 1974, and republished, as corrected this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in West Virginia, on the one hand, and, on the other, those points in West Virginia, on the one hand, and, on the other, those points in the Upper Peninsula of Michigan, on and north of a line beginning at the Canada-United States international boundary and extending along U.S. Highway Alternate 50 to junction Michigan Highway 101, thence along Michigan Highway 101 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Michigan Highway 100, thence along Michigan Highway 100 to junction Vermont Highway 100, thence along Vermont Highway 100 to the junction Vermont Highway 100, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Massachusetts on and east of a line beginning at the Massachusetts-Connecticut State line and extending along Massachusetts Highway 8 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Massachu- setts Highway 9A/8A, thence along Massachusetts Highway 9A/8A to junction Massachusetts Highway 8, thence along Massachusetts Highway 8 to junction Massachusetts Highway 78, thence along Massachusetts Highway 78 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Michigan Highway 15, thence along Michigan Highway 12 to junction Michigan Highway 66, thence along Michigan Highway 66 to the Michigan-Lake County line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the Vermont-Massachusetts state line, thence along Vermont Highway 4, thence along Vermont Highway 102, thence along Vermont Highway 102 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this correction is to state the correct territorial description. No. MC 60014 (Sub-No. EB5) (correction), filed June 4, 1974, published in the Federal Register Issue of July 21, 1974, and republished, as corrected this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Atlantic Ocean and extending along Rhode Island Highway 2/112 to junction Rhode Island Highway 112, thence along Rhode Island Highway 112 to junction Rhode Island Highway 3, thence along Rhode Island Highway 3 to junction U.S. Highway 102, thence along U.S. Highway 102 to the Rhode Island-Massachusetts State line, to points In Alabama. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this correction is to state the correct territorial description.
by motor vehicle, over irregular routes, transporting: Iron and steel articles, requiring special equipment so that or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to those in Massachusetts within the State line. The purpose of this filing is to eliminate the gateways of Rhode Island on and east of a line beginning at the Connecticut-Rhode Island line, to points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E89) (correction), filed June 4, 1974, published in the Federal Register issue of July 21, 1975, and republished, as corrected, this issue. Applicant: Aero Trucking, Inc., P.O. Box 308, Monroeville, Pa. 15146. Applicant’s representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, requiring special equipment, so that or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to those points in Massachusetts on and east of a line beginning at the Mississippi-Kentucky State line and extending along U.S. Highway 119 to junction Kentucky Highway 80. thence along Kentucky Highway 80 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn. points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

Note.—The purpose of this filing is to state the correct gateway territory.

No. MC 60014 (Sub-No. E118) (correction), filed June 4, 1974, published in the Federal Register issue of August 25, 1975, and republished, as corrected, this issue. Applicant: Aero Trucking, Inc., P.O. Box 308, Monroeville, Pa. 15146. Applicant’s representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, which, by reason of size or weight, require the use of special equipment, between points in Pennsylvania, and points in Virginia east of a line beginning at the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of (1) West Virginia; (2) Pennsylvania; (3) New York; and (4) points in Massachusetts within 35 miles of Boston; (5) points in Massachusetts east of U.S. Highway 5.

Note.—The purpose of this correction is to state the correct gateway territory.
No. MC 60014 (Sub-No. E120) (correction), filed June 4, 1974, published in the Federal Register issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, restricted so that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and south of Interstate Highway 80 on the one hand, and, on the other, those points in New Jersey on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateway of points in Vermont on and east of Interstate Highway 80, those in Massachusetts with in 35 miles of Boston; the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, from Waukegan, Ill, to points in Virginia (West Virginia); Connecticut, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, those in Massachusetts on and east of a line beginning at the Vermont-Massachusetts state line and extending along Massachusetts Highway 116, thence along Massachusetts Highway 116 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to junction Massachusetts Highway 91, thence along Massachusetts Highway 91 to junction Massachusetts Highway 112, thence along New Hampshire Highway 112 to junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction New Hampshire Highway 3A/25, thence along New Hampshire Highway 3A/25 to junction New Hampshire Highway 3A, thence along New Hampshire Highway 3A to junction New Hampshire Highway 104, thence along New Hampshire Highway 104 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 123A, thence along New Hampshire Highway 123A to junction New Hampshire Highway 123, thence along New Hampshire Highway 123 to the Vermont-New Hampshire State line.

No. MC 60014 (Sub-No. E120) (correction), filed June 4, 1974, published in the Federal Register issue of October 1, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building, roofing and insulating material, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, (except in bulk), from the plant site of Johns Manville Perlite Corp., Roedale, Ill, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia (Pennsylvania; points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn., and points in Massachusetts on and east of U.S. Highway 5).

No. MC 60014 (Sub-No. E120) (correction), filed June 4, 1974, published in the Federal Register issue of September 10, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which, by reason of size or weight, require the use of special equipment, between those points in Ohio on and west of a line beginning at Lake Erie and extending along U.S. Highway 22, thence along U.S. Highway 348 to junction Ohio Highway 88, thence along Ohio Highway 88 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, those points in Pennsylvania on and west of the Ohio-Pennsylvania State line, on the one hand, and, on the other, those points in Massachusetts on and west of the Vermont-Massachusetts State line.

The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 36 miles of Boston.

The purpose of this correction is to state the correct gateway territory.

The purpose of this correction is to eliminate the gateway of Columbus, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 36 miles of Boston.

The purpose of this correction is to state the correct gateway territory.

The purpose of this correction is to eliminate the gateway of Columbus, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 36 miles of Boston.

The purpose of this correction is to eliminate the gateway of Columbus, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 36 miles of Boston.

The purpose of this correction is to eliminate the gateway of Columbus, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 36 miles of Boston.
Notices

No. MC 60014 (Sub-No. E14E) (correction), filed June 4, 1974, published in the Federal Register issue of July 21, 1975, as E38, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: iron and steel articles, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to points in Mississippi. The purpose of this filing is to remove the gates of points in Massachusetts within 35 miles of Boston, Greenwich, Conn., points in New York within 10 miles of Greenwich, Conn., and Wheeling and Beechbottom, W. Va., and points in Massachusetts on and east of U.S. Highway 5.

Note. The purpose of this correction is to state the correct Sub number E38 instead of E39.

No. MC 60014 (Sub-No. E311) (correction), filed June 4, 1974, published in the Federal Register issue of July 17, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: commodities, the transportation of which, by reason of their size or weight require the use of special equipment or handling, between points in Indiana on the one hand, and, on the other, points in New Hampshire, Rhode Island, those points in Massachusetts within 35 miles of Boston, and those points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along the Merrimack and Connecticut Rivers to Junction 190, thence along Connecticut Highway 190 to junction Connecticut Highway 32, thence along Connecticut Highway 32 to Long Island Sound. The purpose of this filing is to eliminate the gateway of Goldsboro, North Carolina.

Note. The purpose of this correction is to state the correct Sub number E313 instead of E310.

No. MC 61825 (Sub-No. E106G), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1050 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: new furniture, from points in Arizona, California, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and those points in Kansas and Missouri on and east of a line beginning at the Kansas-Oklahoma State line, extending along U.S. Highway 62 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1067), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1050 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: new furniture, from points in Arizona, California, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and those points in Kansas and Missouri on and east of a line beginning at the Kansas-Oklahoma State line, extending along U.S. Highway 62 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.
Authority sought to operate as a representative: Harry Stone, Martinsville, Va.

TRANSPORT CORP., P.O. Box 1974, Martinsville, Va.

Authority sought to operate as a representative: Harry J. Jordan, 100 Sixth St. NW., Washington, D.C.

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Missouri State line at Chester, Ill., and extending southeast along Illinois Highway 149, thence east on Illinois Highway 149 to junction Illinois Highway 150, thence east on Illinois Highway 150 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction U.S. Highway 50, thence west on U.S. Highway 50 to junction Interstate Highway 74, thence east on U.S. Highway 61 to junction Illinois Highway 16, thence east on Illinois Highway 16 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction Interstate Highway 149, thence east on U.S. Highway 61 to junction U.S. Highway 50 at the gateways of Smyth County, Va., and extending south along U.S. Highway 50 to the gateways of Illinois and the plant site of Certain-teed Products Corp. at Avery, Ohio.

No. MC 106603 (Sub-No. E93), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building contractor's materials, from those points in Illinois on, north, and west of a line beginning at the Illinois-Missouri State line at Chester, Ill., and extending southeast along Illinois Highway 149, thence east on Illinois Highway 149 to junction Illinois Highway 150, thence east on Illinois Highway 150 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction U.S. Highway 50, thence west on U.S. Highway 50 to junction Interstate Highway 74, thence east on U.S. Highway 61 to junction Illinois Highway 16, thence east on Illinois Highway 16 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction Interstate Highway 149, thence east on U.S. Highway 61 to junction U.S. Highway 50 at the gateways of Smyth County, Va., and extending south along U.S. Highway 50 to the gateways of Illinois and the plant site of Certain-teed Products Corp. at Avery, Ohio.
NOTICES

Sierra, Socorro, Colfax, Harding, Mora, Taos, and Union Counties, N. Mex.; Al-.
Bella, Beaver, Big Horn, Blaine, Bon,
nomane, Cotton, Custer, Deuel, Ellis, Greer, Harmon, Harper, Jackson, Kiowa,
Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee,
Creek, Dewey, Ellis, Garfield, Grant, Har- er, Johnston, Kay, Kingfisher, Lin-
coln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma,
Osage, Pawnee, Payne, Pontotoc, Pottawati,
oma, Seminole, and Stephens Counties,
Okla.; Armstrong, Bailey, Briscoe, Carson,
Castro, Childress, Cochran, Collin-
sworth, Cotton, Dallam, Deaf Smith,
Denton, Floyd, Foard, Gray, Hale, Hall,
Hansford, Hardeman, Hartley, Hemphill,
Hockley, Hutchinson, Lamb, Lipscomb,
Moore, Motley, Ochiltree, Oldham,
Farmer, Potter, Randall, Roberts, Sher-
man, Swiss, Wheeler, Whitsitt, Wilbarger,
Brewster, Culberson, El Paso, Hudspeth,
Jeff Davis, Loving, Pecos, Presidio,
Terrell, Ward, and Winkler Counties, Tex.

From points in Colbert, Fayette,
Ward, Appanoose, Boone, Clarke,
Dumas, Deaf Smith, Dallam, Deaf Smith,
Denton, Floyd, Foard, Gray, Hale, Hall,
Hansford, Hardeman, Hartley, Hemphill,
Hockley, Hutchinson, Lamb, Lipscomb,
Moore, Motley, Ochiltree, Oldham,
Farmer, Potter, Randall, Roberts, Sher-
man, Swiss, Wheeler, Whitsitt, Wilbarger,
Brewster, Culberson, El Paso, Hudspeth,
Jeff Davis, Loving, Pecos, Presidio,
Terrell, Ward, and Winkler Counties, Tex.

(4) From points in Colbert, Fayette,
Ward, Appanoose, Boone, Clarke,
Dumas, Deaf Smith, Dallam, Deaf Smith,
Denton, Floyd, Foard, Gray, Hale, Hall,
Hansford, Hardeman, Hartley, Hemphill,
Hockley, Hutchinson, Lamb, Lipscomb,
Moore, Motley, Ochiltree, Oldham,
Farmer, Potter, Randall, Roberts, Sher-
man, Swiss, Wheeler, Whitsitt, Wilbarger,
Brewster, Culberson, El Paso, Hudspeth,
Jeff Davis, Loving, Pecos, Presidio,
Terrell, Ward, and Winkler Counties, Tex.
No. MC 115840 (Sub-No. E111), filed September 12, 1977. Applicant: COLONIAL PAST FREIGHT LINES, INC., P.O. Box 10527, Birmingham, Ala. 35206. Applicant's representative: Stephen T. Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting iron and steel pipe, iron castings, cast iron pipe, pipe fittings, pipe valves, and fire hydrants; also wholesale groceries, and institutional supplies consisting of fittings, valves, hydrants, and gaskets used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply business. This application is to the other points in Arizona, New Mexico, North Dakota, Oklahoma, Colorado, Idaho, Kansas, Louisiana, Mississippi, Nevada, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala.

No. MC 115840 (Sub-No. E112), filed September 12, 1977. Applicant: COLONIAL PAST FREIGHT LINES, INC., P.O. Box 10527, Birmingham, Ala. 35206. Applicant's representative: Stephen T. Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting iron and steel pipe, iron castings, cast iron pipe, pipe fittings, pipe valves, and fire hydrants; also wholesale groceries, and institutional supplies consisting of fittings, valves, hydrants, and gaskets used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply business. This application is to the other points in Arizona, New Mexico, North Dakota, Oklahoma, Colorado, Idaho, Kansas, Louisiana, Mississippi, Nevada, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala.

No. MC 115840 (Sub-No. E114), filed September 12, 1977. Applicant: COLONIAL PAST FREIGHT LINES, INC., P.O. Box 10527, Birmingham, Ala. 35206. Applicant's representative: Stephen T. Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting cast iron pipe, pipe fittings, pipe valves, and fire hydrants; also wholesale groceries, and institutional supplies consisting of fittings, valves, hydrants, and gaskets used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply business. This application is to eliminate the Gateway of Holt, Ala.

No. MC 124040 (Sub-No. E1), filed May 15, 1974. Applicant: RICHARD DAEN, INC., 620 W. Mountain Road, Sparta, N.J. 07871. Applicant's representative: George A. Olesen, 69 Tonnel Avenue, Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Quiled magnetic Ore, (1) from Albany and Tahawus, N.Y., to points in Kentucky, Pennsylvania, Virginia and West Virginia; (2) from Albany and Tahawus, N.Y., to points in Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey State line, and extending along Interstate Highway 66 to Junction U.S. Highway 322, to Junction U.S. Highway 322, to Junction Pennsylvania Highway 358, thence along Pennsylvania Highway 358 to the Pennsylvania-Ohio State line. The purpose of this filing is to eliminate the gateway of Mt. Hope, N.J.
NOTICES

Upon further consideration of Exemption No. 96 issued February 5, 1975, it is ordered, That, under the authority vesting in me by Car Service Rule 19, Exemption No. 95 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire December 31, 1977.

This amendment shall become effective September 30, 1977.


INTERSTATE COMMERCE COMMISSION
Joel E. Burns, Acting Secretary.

[FR Doc.77-29023 Filed 9-30-77;8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF


An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the Federal Register. Petitioners, three common carriers by railroad 1 subject to Part I of the Interstate Commerce Act, and operating in intrastate commerce in the State of Montana, and on behalf of and in the name of the Montana Intrastate Freight Rate Adjustment Committee, request that this Commission institute an investigation of their Montana intrastate rail freight rates and charges, under section 13 of the Interstate Commerce Act to the extent that transportation conditions for intrastate traffic moving in intrastate commerce are less favorable than for interstate traffic; that the proposed intrastate rates will be pursuant to the order prayed for it may be effective on October 29, 1977.

By the Commission.

H. G. Homme, Jr., Acting Secretary.

[FR Doc.77-29027 Filed 9-30-77;8:45 am]

[7035-01]

PETITION OF RAILROADS SEEKING AUTHORIZATION TO WAIVE DEMARRAGE CHARGES CAUSED BY SEVERE WINTER WEATHER

SEPTEMBER 27, 1977.

In an order served August 12, 1977, the Commission granted specified rail carriers the right to waive a portion of demurrage charges caused by severe winter weather. Published at 42 FR P. 41,948 on August 19, 1977. In that order, the Commission stated that other carriers who want to participate in the proposal could, upon notifying the Commission in writing of their intent to do so. The following carriers should also be added to those who intend to participate in the proposal: Johnstown and Stoney Creek Railroad Co., The Newburgh and South Shore Railway Co., and The Pittsburgh and Lake Erie Railroad Co.

H. G. Homme, Jr. Acting Secretary.

[FR Doc.77-29028 Filed 9-30-77;8:45 am]

[7035-01]

MONTANA INTRASTATE FREIGHT RATES AND CHARGES—1977


In the matter of petition for investigation of intrastate railroad freight rates and charges within the state of Montana.

By joint petition authorized under section 13 of the Interstate Commerce Act filed under similar traffic moving in intrastate commerce, three common carriers by railroad subject to Part I of the Interstate Commerce Act, and operating in intrastate commerce in the State of Montana and on behalf of the Montana Intrastate Freight Rate Adjustment Committee, request that this Commission institute an investigation of their Montana intrastate rail freight rates and charges, under section 13 and 15a of the Interstate Commerce Act; wherein they will seek an order authorizing them to increase such rates and charges in the amounts approved for intrastate application by this Commission in Ex Parte Nos. 305-RE, 318, 330, and 336.

By tariff filed with the Montana Public Service Commission, petitioners sought to make the general increases granted in the above ex parte proceedings applicable to Montana intrastate traffic. Said Commission ordered cancelled the tariff supplements which would have implemented such increases.

Petitioners contend that present interstate freight rates from, to, and within Montana are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Montana are no more favorable than for interstate traffic; that disparity in favor of Montana intrastate traffic and charges is generally exists in relation to interstate rates and charges; that the present Montana intrastate rail freight rates and charges create undue, unreasonable, and unjust discrimination against shippers and degree of burden on interstate commerce in violation of sections 13 and 15a of the Interstate Commerce Act, to the extent that they do not include the increases authorized in Ex Parte Nos. 305-RE, 318, 330, and 336; and that failure of the Montana Public Service Commission to authorize petitioner to increase Montana intrastate freight rates and charges corresponding to the aforesaid interstate increases has resulted in depriving petitioners and additional revenue and by them to enable them under honest, economical and efficient management to provide adequate and efficient railroad transportation and services consistent with the public interest and the National Transportation Policy.

Petitioners also contend that upon entering the order prayed for it may become necessary to make readjustments for the purpose of retaining rail traffic and maintaining market relationships, which adjustments have no relation to interstate rates and charges on like traffic as to the provisions of the act. They therefore request that provision be made in said Order for subsequent readjustments by petitioners on a self-executing basis rather than further proceedings or orders of this Commission so that excessive delays of supplemental orders may be avoided. They suggest that the order contain a self-operative provision permitting such readjustments and charges upon 30 days' notice given to the Commission and to the general public, or upon such a lesser period as may be authorized by special permission application, and where no protest to such adjustment is received by the Commission, on or before 12 days prior to the expiration of the 30 day notice, said adjustments may become effective automatically, unless otherwise ordered by the Commission.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation, into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or condition of any State.

Therefore, It is ordered, That the petition is granted. An investigation, under section 13 and 15a of the Interstate Commerce Act, is instituted to determine whether the Montana intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include increases authorized for interstate application by this Commission in Ex Parte Nos. 305-RE, 318, 330, and 336. It will also determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist. The investigation will also determine whether the additional revenue needed self-operative provision permitting self-executing rate readjustments is properly within the scope of an investigation such

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as this one, and, if so, whether the pleadings submitted in this investigation show reason sufficient to warrant such a provision.

It is further ordered, That all common carriers by railroad operating in the State of Montana, subject to the jurisdiction of this Commission are made respondents in this proceeding.

It is further ordered, That all persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C., 20523, or before 16 days from the Federal Register publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order shall be served upon each of the petitioners and respondents herein. The State of Montana shall be notified of this order by certifying mail to the Governor of the State of Montana.

The State of Montana shall be notified upon whom service of all pleadings must be made, and that such service has been made. 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-77115 filed September 14, 1977. Transferee: R. A. Harris & Sons, 3501 22d Street, Menomonee, Mich. 49858. Transferor: Service Ice Company, a corporation, 1015 N. 14th Street, Sheboygan, Wis. 53081. Applicant's representative: Robert A. Harris, (address same as transferee). Authority sought for purchase by transferee of a portion of operating rights of transferor, as set forth in Certificate No. MC 109794 issued July 17, 1961, as follows: Ice cream and frozen milk products, from Sheboygan, Wis., to points in Iowa, Minnesota, Illinois, Indiana, and Michigan; and miscellaneous foodstuffs for use as ingredients in the manufacture of ice cream and frozen milk products, returned shipments of ice cream and frozen milk products, and empty cases and containers used in packaging ice cream and frozen products, from points in Iowa, Minnesota, Illinois, Indiana, and Michigan, to Sheboygan, Wis. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Veritable Dairy Products Co., of Sheboygan, Wis. Transfer presently holds no authority from the Commission. Application has not been filed for temporary authority under section 210(a).

those in New York within 75 miles of New York, N.Y., including New York, N.Y.; hides and tallow, between Philadelphia, Pa., on the one hand, and, on the other, points in New York and New Jersey within 20 miles of New York, N.Y., including New York, N.Y.; and general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special handling or rigging because of size or weight, and those injurious or contaminating to other lading, between points in Philadelphia, Pa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC 77364, filed September 13, 1977. Transferee: Ray Holland, 15101 El Road, Little Rock, Ark. 72206. Transferor: William R. Pinkerton, doing business as Bill Pinkerton, 13801 Tronon Cutoff, Little Rock, Ark. 72206. Applicants' representative: THOMAS J. PRESSON, Lot 27 River Bend Estates, Redfield, Ark. 72132. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC 117834 (Sub-No. 1); MC 117834 (Sub-No. 4); and MC 117834 (Sub-No. 5); issued May 7, 1963, August 12, 1963, February 2, 1967, and January 23, 1970, as follows: Bananas, from New Orleans, La., to Little Rock, Ark.; bananas, from Gulfport, Miss., Mobile, Ala., and Houston and Galveston, Texas, to North Little Rock, Ark.; fruit and vegetable shipping containers, from Little Rock, Ark., to points in Louisiana; bananas, from New Orleans, La., Gulfport, Miss., Mobile, Ala., and Houston and Galveston, Texas, to Little Rock, Ark.; Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr., Acting Secretary.

[FR Doc.77-29030 Filed 9-30-77; 8:15 am]
sunshine act meetings

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[6320-01] 1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., September 27, 1977; 2:00 p.m., September 29, 1977.

PLACE: Room 1037, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Scheduled Meetings for September 27 as announced by M-50 as amended by MA-52 and MA-53; and for September 29 as announced by MA-61.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION:

Notice of change of time for the September 27, and September 29 Meetings.

Chairman Kahn and Member West will be at the State Department the afternoon of September 27, and thus it is necessary to change the time of the scheduled meeting from 2:00 p.m. to 10:00 a.m.

Chairman Kahn will appear at a Congressional meeting the morning of September 29, and thus it is necessary to change the time of that scheduled meeting from 10:00 a.m. to 2:00 p.m.

[8-1490-77 Filed 9-29-77;1:31 a.m.]

[8010-01] 2

SECURITIES AND EXCHANGE COMMISSION.


TIME AND DATE: September 29, 1977, 5 p.m.

PLACE: 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Discussion of litigation matters.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the above captioned meetings and determined that no earlier notice thereof was possible.


[8-1491-77 Filed 9-29-77;10:02 am]

[7020-02] 4

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20230.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.

2. Minutes.

3. Ratifications.

4. Petitions and complaints (if necessary).

5. Discussion of possible section 332 investigation on steel.

6. Consideration of overall research plan (to be submitted by the Acting Director of Operations).


9. Discussion of the status of the report to the Ways and Means Committee—see action jacket 004-77-6.

10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[8-1488-77 Filed 9-28-77;4:07 pm]

[7020-02] 4

UNITED STATES INTERNATIONAL TRADE COMMISSION. USITC SE-77-57B.


PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Tuesday, October 11, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows: 2. Investigation AA1921-Inq.-7 (Methyl Alcohol)—briefing (if necessary) and vote.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[8-1483 Filed 9-28-77;4:07 pm]
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Procedure for Map Correction
PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Boulder, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 27, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas, this list included the City of Boulder, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Boulder, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year.

The text reads as follows:

§1920.7 Notice of Letter of Map Amendment.

Map No. H 080024A Panels 03 and 05, published on June 27, 1974 in 39 FR 23294, indicates that Lot 19, Block 3, Keewaydin Meadows Filing No. Three, Boulder, Colo., as recorded on Plan File R-2-3, No. 6, in the office of the Clerk and Recorder of Boulder County, Colo., is within the Special Flood Hazard Area. Map No. H 080024A Panels 03 and 05 is hereby corrected to reflect the entire area bounded by U.S. Route 36 on the south, Pawnee Drive on the west, Baseline Road on the north, and the City of Boulder corporate limits on the east, which includes Lot 19, Block 3, is not within the Special Flood Hazard Area identified on June 14, 1974.

The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§1920.7 Notice of Letter of Map Amendment.

Map No. H 240008 Panel 25, published on November 29, 1974, in 39 FR 41504, indicates that Lot 35, Section 4, The Highlands, Anne Arundel County, Md., as recorded in Liber Number 33, Folio 20 of Plats, in the Office of the Clerk of the Circuit Court, Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240008 Panel 25 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on November 16, 1974.

The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:
FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year:

Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 45, published on November 24, 1974, in 39 FR 28255, indicates that Lot 93, Section 5, Ulmstead Estates, also being 602 Quail Run Court, Anne Arundel County, Md., as recorded in Platbook 51, Page 14, in the Office of the Clerk of the Circuit Court, Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240008 Panel 45 is hereby corrected to reflect that the subject property is not within the Special Flood Hazard Area identified on November 15, 1974.


Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc. 77-28327 Filed 9-30-77; 8:45 am]

[4210-01 ]

[Doct No. F 4-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Calvert County, Md.

AGENCY: Federal Insurance Administration,HUD.

ACTION: Final rule.

SUMMARY: On October 23, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Calvert County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Calvert, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year:

Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 55, published on November 29, 1974, in 39 FR 41504, indicates that Lots 42 and 43, Crofton Commons, Annapolis, Anne Arundel County, Md., as recorded in Plat Number 2654, Platbook 49, Folio 23, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., are within the Special Flood Hazard Area.

Map No. H 240008 Panel 55 is hereby corrected to reflect that the subject property is not within the Special Flood Hazard Area identified on November 15, 1974.


Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc. 77-28327 Filed 9-30-77; 8:45 am]
RULING AND REGULATIONS

PROPERTY is not within the Special Flood Hazard Area identified on October 18, 1974.


Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-23323 Filed 9-30-77; 8:45 am]

4210-01

[Docket No. FT-3360]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Prince Georges County, Md. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Prince Georges, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 200-735-5551, toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. HAI 245208A Panel 33, published on February 14, 1977, in 42 FR 9113, indicates that Lot 17, Block E, Section 3, Rambling Hills, Prince Georges County, Md., as recorded in Book 64, Page 23 in the Office of Land Records of Prince Georges County, Md., is within the Special Flood Hazard Area.

Map No. HAI 245208A Panel 33 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 28, 1976. The Structure is in Zone C.


Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-23329 Filed 9-30-77; 8:45 am]

4210-01

[Docket No. FT-3361]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Marlborough, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Marlborough, Mass. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the City of Marlborough, Mass., that certain property is not within the Special Flood Hazard Area.

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


FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-735-5551 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b): Map No. H 250201 Panel 02, published on August 7, 1974, in 39 FR 28426, indicates that Lot 6, Section C, Indian Lake Shores, at 291 Lake Shore Drive, Marlborough, Mass., as recorded in Book 656, Page End, in the office of the Registry of Deeds of Middlesex County, Mass., is within the Special Flood Hazard Area.

Map No. H 250201 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 20, 1974.


Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-23330 Filed 9-30-77; 8:45 am]

4210-01

[Docket No. FT-3341]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Blaine, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Blaine, Minn. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the City of Blaine, Minn., that certain property is not within the Special Flood Hazard Area.

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

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Upper Saddle River, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Upper Saddle River, N.J., in light of additional, recently acquired flood information, that a certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year.

The property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:
§ 1920.7 Notice of letter of map amendment.

Map No. H 270007A Panel 10, published on August 6, 1974 in 39 FR 28236, indicates that Lots 10 through 12, Block 5; Lots 7 through 20, Block 6; Lots 1 through 22, 25 and 26, Block 7; and Lot 4, Block 8, Rice Creek Park, Blaine, Minn., as recorded in Book 22 of Plats, Page 1, in the office of the Recorder of Anoka County, Minn., are within the Special Flood Hazard Area.

Map No. H 270007A Panel 10 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area as identified on June 28, 1974.

[4210-01]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Upper Saddle River, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 16, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Upper Saddle River, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Upper Saddle River, N.J., in light of additional, recently acquired flood information, that a certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:
§ 1920.7 Notice of letter of map amendment.

Map No. H 340077 Panel 02, published on January 16, 1974, in 39 FR 6866, indicates that the westerly portion of Lot 15, at 111 Lake Street, Upper Saddle River, N.J., as recorded in Book 5693, Pages 29 through 31, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340077 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

[4210-01]
PART 1920—PROCEDURE FOR MAP CORRECTION
Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administration published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., that certain property is not within the Special Flood Hazard Area.

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


FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with §1920.7(b): Map No. H 34007 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 1, Block 301, on 451 George Street, Ridgewood, N.J., not within the Special Flood Hazard Area. This property is recorded as Lot 1, Block 301, in the office of the Clerk of Bergen County, N.J.

Map No. H 34007 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area. This map amendment, effective August 24, 1973, in 38 FR 22776, indicates that Lot 1, Block 301, on 451 George Street, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 1, Block 301, in the office of the Clerk of Bergen County, N.J.

Map No. H 34007 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area.
(NFTA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 01, published on August 24, 1973 in 38 FR 22776, indicates that Lot 31, Block 3095, as shown on the City Tax Assessor's Map, at 545 Barnett Place, Ridgewood, New Jersey, is within the Special Flood Hazard Area. This lot is recorded as Lot 14D, Block 165, in Book 5383, Page 346, in the office of the Clerk of Bergen County, New Jersey.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.


Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc 77-28333 Filed 9-30-77; 7:45 am]

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFTA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973 in 38 FR 22776, indicates that Lot 27, Block 4205, located at 131 Bergen Court, Ridgewood, New Jersey, as shown on the City Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 5, Block "A", in Book 3484, Page 78, in the office of the Clerk of Bergen County.

This property is recorded as Lot 31, Block 2787, published maps identifying Special Flood Hazard Areas. This list includes that property located at 379 South Irving Street, Ridgewood, N.J., as recorded in Book 574, Page 210, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:


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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFTA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that property located at 379 South Irving Street, Ridgewood, N.J., as recorded in Book 574, Page 210, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:


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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:


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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 203-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on that property described below, the lender may issue a refund of the premium paid for the current policy year to the property owner through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973 as 38 FR 22776, indicates that Lot 8, Block 4317, located at 249 Lockwood Road, Ridgewood, N.J., as shown on the County Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lots 33 and 34, Block 285, in Book 3394, Page 333, in the office of the Clerk of Bergen County, N.J. Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 203-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on that property described below, the lender may issue a refund of the premium paid for the current policy year to the property owner through the agent or broker who sold the policy.

The text reads as follows:
The requirement to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The test reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 390173A Panel 04, published on March 30, 1976, in 41 FR 13344, indicates that Lots 22 and 26, Brock Park Section 2, Grove City Ohio, as recorded in Platmook 60, Page 4 in the Office of the Recorder, Franklin County, Ohio, are within the Special Flood Hazard Area.

Supplementary Information: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The test reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14, published on January 27, 1975 in 40 FR 3993, indicates that Lots 10, Forestway No. 2, Washington County, Oregon, as recorded in Book 300, Page 214 in the Office of the Clerk of Records and Elections of Washington County, Oregon, is within the Special Flood Hazard Area.

The test reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14 is hereby corrected to reflect the existing structures on the above property are not within the Special Flood Hazard Area. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14, published on January 27, 1975 in 40 FR 3993, indicates that Lots 10, Forestway No. 2, Washington County, Oregon, as recorded in Book 300, Page 214 in the Office of the Clerk of Records and Elections of Washington County, Oregon, is within the Special Flood Hazard Area.

The test reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14 is hereby corrected to reflect the existing structures on the above property are not within the Special Flood Hazard Area. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.
PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Clairmont, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Clairmont, S. Dak. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Town of Clairmont, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 460105 Panel 01, published on April 16, 1976, in 40 FR 17020, indicates that Lots 1 and 2, Block 5 of the Original Plat of the Town of Clairmont, S. Dak., as recorded in Quit Claim Deed, Book 170, Page 397, in the office of the Register of Deeds, Brown County, South Dakota, are within the Special Flood Hazard Area.

Map No. H 460105 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on April 25, 1975.

[4210-01]
SUMMARY: On January 24, 1975, the Federal Insurance Administrator published maps identifying Special Flood Hazard Areas. This list included Missouri City, Texas. (See correction below.)

CORRECTION: After further technical review of the Flood Hazard Boundary map for the City of Missouri City, it has been determined by FIA, that the above property is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-5872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurance Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1929.7 Notice of letter of map amendment.

Map No. H 480304 Panel 02, published on January 24, 1975, in 40 FR 3781, indicates that Lots 1 through 17, Block 1; Lots 1 through 19, Block 2; Lots 1 through 37, Block 3; Lots 1 through 72, Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurance Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480296A Panel 138, published on January 10, 1975, in 49 FR 2190, indicates that Fonden Place Townhouses, Houston, Texas, as recorded in Volume 230, Page Number 56 of Plats, in the Office of the Clerk of Court, Harris County, Texas, is within the Special Flood Hazard Area.

Map No. H 480304 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 17, 1975.

[4210-01]

[Doctrine No. FF-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Houston, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration published maps identifying Special Flood Hazard Areas. This list included Houston, Tex. It has been corrected to reflect that the above property is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-5872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurance Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480296A Panel 138, published on January 10, 1975, in 49 FR 2190, indicates that Fonden Place Townhouses, Houston, Tex., as recorded in Volume 230, Page Number 56 of Plats, in the Office of the Clerk of Court, Harris County, Tex., is within the Special Flood Hazard Area.
the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 48027B Panel 41, published on February 14, 1977, in 42 FR 9118, indicates that Owen Tract, Harris County, Tex., as recorded in Volume 8321, Page 12, of General Warranty Deeds in the Office of the Clerk of Court of Harris County, Tex., is within the Special Flood Hazard Area.

Map No. H & I 48027B Panel 41 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

Beginning at an iron pipe at a fence corner marking the northeast corner of the Huston Wood Survey, Abstract No. 889, Harris County, Tex., and the northwest corner of the F. MacNaughton Survey; thence S. 87°57'02" E., approximately 598 feet to a point; thence S. 87°W., approximately 1,075 feet to a point; thence S. 60°30'W., approximately 1,075 feet to a point; thence S. 77°15'W., approximately 1,570 feet to a point on the western line of said tract; thence N. 2°34'28" W., approximately 1,761 feet to a point being the northwest corner of said tract; thence N. 67°37'03" E., approximately 1,145.28 feet to a point, being the point of beginning, is not within the Special Flood Hazard Area, but is within Zone C as identified on July 30, 1976.

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc. 77-28349 Filed 9-30-77; 8:45 am]

RULES AND REGULATIONS

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administration published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Fairfax County, Va. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Fairfax, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

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

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5501 or toll free line 800-424-8872, Room 5570, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: Provided, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 51525C Panel 13, published on February 14, 1977, in 42 FR 9119, indicates that Lot 20, Block K, Section 2, Resubdivision Merrifield View, Fairfax County, Va., as recorded in Deedbook 3255, Page 611 of Plats in the Office of the Clerk of the Circuit Court for Fairfax County, Va., is within the Special Flood Hazard Area.

Map No. H & I 51525C Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 7, 1976. The property is in Zone C.

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc. 77-28350 Filed 9-30-77; 8:45 am]
[4210–01]  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Federal Insurance Administration  
[24 CFR Part 1917]  
\[Docket No. FI-3428\]

NATIONAL FLOOD INSURANCE PROGRAM  
Proposed Flood Elevation Determinations for the Township of Unity, Westmoreland County, Pa.  
AGENCY: Federal Insurance Administration, HUD.  

ACTION: Proposed rule.  

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of Unity, Westmoreland County, Pa. These base flood elevations are the basis for the floodplain management regulations that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.  

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Little Crabtree Creek</td>
<td>Route 162</td>
<td>103</td>
</tr>
<tr>
<td>Little Crabtree Creek</td>
<td>Route 162</td>
<td>103</td>
</tr>
<tr>
<td>Nine Mile Run</td>
<td>Route 162</td>
<td>103</td>
</tr>
<tr>
<td>Tributary No. 1</td>
<td>Route 162</td>
<td>103</td>
</tr>
<tr>
<td>Tributary No. 2</td>
<td>Route 162</td>
<td>103</td>
</tr>
<tr>
<td>Confluence with Nine Mile Run</td>
<td>Route 162</td>
<td>103</td>
</tr>
</tbody>
</table>

FOR FURTHER INFORMATION CONTACT:  
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 924–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.  


Issued: August 30, 1977.  
PATRICIA ROBERTS HARRIS,  
Secretary.  
\[FR Doc.77–28428 Filed 9–30–77; 8:15 am\]  

[4210–01]  
[24 CFR Part 1917]  
\[Docket No. FI-3428\]

NATIONAL FLOOD INSURANCE PROGRAM  
Proposed Flood Elevation Determinations for the Township of Walker, Juniata County, Pa.  
AGENCY: Federal Insurance Administration, HUD.  

ACTION: Proposed rule.  

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Walker, Juniata County, Pa. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).  

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.  

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Building, R.D. 1, Thomptown, Pa. 17094.  

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John E. Wagner, R.D. 2, Millhilltop, Pa. 17094.  

FOR FURTHER INFORMATION CONTACT:  
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 924–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.  


These elevations together with the floodplain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents, and for the second layer of insurance on existing buildings and contents.  

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juniata River</td>
<td>Conference tributary</td>
<td>42</td>
</tr>
<tr>
<td>Juniata River</td>
<td>Conference of Doe Run</td>
<td>42</td>
</tr>
<tr>
<td>Juniata River</td>
<td>State Route 273, E.R.</td>
<td>42</td>
</tr>
<tr>
<td>Juniata River</td>
<td>State Route 273, E.R.</td>
<td>42</td>
</tr>
<tr>
<td>Juniata River</td>
<td>State Route 273, E.R.</td>
<td>42</td>
</tr>
</tbody>
</table>
PROPOSED RULES

Source of flooding  Location  Elevation in feet, national geodetic vertical datum

Farmer's Rd. downstream  544
Tributary No. 7....  Confluence with Jun- ista River  623
Tributary No. 7....  Confluence with Jun- ista River  623
Tributary No. 7....  Confluence with Jun- ista River  623
Doe Run  422
Cedar Spring Run  423
Cedar Spring Run  423
Tributary No. 1....  Confluence with Cedar  Spring Run  435
Tributary No. 1....  Confluence with Cedar  Spring Run  435
Cedar Grove Rd  438
Swamp Rd./Rt.606  445
U.S. Routes 22 & 32  452
Swamp Rd./Rt.606  445
U.S. Routes 22 & 32  452


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,  Secretary.

[FR Doc. 77-28143 Filed 9-30-77; 8:45 am]

[4210-01]  [24 CFR Part 1917]  [Docket No. FT-9450]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Lawrenceville, Brunswick County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Lawrenceville, Brunswick County, Va. These base flood elevations are the basis for the floodplain management measures that the community is required to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 101 East Church Street, Lawrenceville, Va. 23866.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. E. N. Doyle, Mayor of Lawrenceville, Va. 23866.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Adminis- trator, Office of Flood Insurance, 202-755-5581 or toll free line 800-874-9872, Room 2270, 451 Seventh Street, SW., Washington, D.C. 20410.


These elevations together with the flood plain management measures that the community is required to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 101 East Church Street, Lawrenceville, Va. 23866.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. E. N. Doyle, Mayor of Lawrenceville, Va. 23866.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Adminis- trator, Office of Flood Insurance, 202-755-5581 or toll free line 800-874-9872, Room 2270, 451 Seventh Street, SW., Washington, D.C. 20410.


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordnances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding  Location  Elevation in feet, national geodetic vertical datum

Sand River downstream limit of detailed study  375
Tributary O limit of detailed study  344
Tributary Cl downstream limit of detailed study  381
Tributary Cl downstream limit of detailed study  379
Tributary V upstream corporate limits  312
Reds Branch 2-Notch Rd  451

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4126; and Secretary's delegation of authority to Federal Insurance Adminis-
Proposed Flood Elevation Determinations

Elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Courthouse, Douglas County, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William E. Bechtol, Chairman of the Douglas County Commissioners, Douglas County, Wash.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-785-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact the requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

**Source of flooding** | **Location** | **Elevation in feet above mean sea level** | **Vertical datum**
--- | --- | --- | ---
Great Creek | Confluence w/Sandy Creek | 176 | Base Flood Elevations
| Confluence w/Rosas Creek | 178 | Base Flood Elevations
| Virginia Route 739 | 181 | Base Flood Elevations
| U.S. 8 Business Route | 183 | Base Flood Elevations
| Downstreet | 192 | Base Flood Elevations
| Corporate limits | 194 | Base Flood Elevations
| Norfleet, Franklin, and Danville R.R. (4th crossing) | 197 | Base Flood Elevations
| Norfleet, Franklin, and Danville R.R. (5th crossing) | 199 | Base Flood Elevations
| Norfleet, Franklin, and Danville R.R. (6th crossing) | 202 | Base Flood Elevations
| Norfleet, Franklin, and Danville R.R. (7th crossing) | 201 | Base Flood Elevations
| U.S. 8 Business Route | 204 | Base Flood Elevations
| Corporate limits | 206 | Base Flood Elevations
| Confluence w/Necky Run | 210 | Base Flood Elevations


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, Secretary.
These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation above mean level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fleo Creek</td>
<td>2,200</td>
</tr>
<tr>
<td>Upstream corporate limits</td>
<td>2,198</td>
</tr>
<tr>
<td>Upstream corporate limits, left bank</td>
<td>2,137</td>
</tr>
<tr>
<td>Flooded bridge</td>
<td>2,135</td>
</tr>
<tr>
<td>Downstream corporate limits</td>
<td>2,130</td>
</tr>
</tbody>
</table>

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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</tr>
</thead>
<tbody>
<tr>
<td>Mud Lake, Yahara U.S. Highway 61</td>
<td>887</td>
<td></td>
</tr>
<tr>
<td>Eau Claire</td>
<td>887</td>
<td></td>
</tr>
<tr>
<td>River</td>
<td>887</td>
<td></td>
</tr>
<tr>
<td>Waubicons</td>
<td>887</td>
<td></td>
</tr>
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<td>Exchange Street</td>
<td>887</td>
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<tr>
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FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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<td></td>
</tr>
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</table>
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The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, National Geodetic Vertical Datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Monona</td>
<td>Bridge Rd</td>
<td>844</td>
</tr>
<tr>
<td>Yahara River</td>
<td>U.S. Highways 12</td>
<td>844 and 884</td>
</tr>
</tbody>
</table>


Issued: August 30, 1977.

PATRICIA ROBERT-HARRIS, Secretary.

[FR Doc.77-28436 Filed 9-30-77;8:45 am]

[4210-01]-[24 CFR Part 1917]
[Docket No. FV-3435]

NATIONAL FLOOD INSURANCE PROGRAM
Proposed Flood Elevation Determinations for the Town of Diamondville, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed 100-year flood elevations. The proposed base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Diamondville, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Phil Fentonchal, Town Hall, Diamondville, Wyo. 83116.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

These elevations together with the floodplain management requirements established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, National Geodetic Vertical Datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Park</td>
<td>Railroad Bridge</td>
<td>6,559</td>
</tr>
<tr>
<td></td>
<td>Post Office 1st Street Bridge</td>
<td>6,555</td>
</tr>
</tbody>
</table>

(Proposed Flood Elevation Determinations for the Town of Hudson, Wyo.)

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Hudson, Wyo. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Hudson, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Red D. Sivilars, Town Hall, Hudson, Wyo. 82515.
PROPOSED RULES

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Lincoln County Courthouse, Kemmerer, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge C. Stuart Brown, Box 1, Kemmerer, Wyo. 83101.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 7th Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Lincoln County, Wyo. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Astoria, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert W. Palmer, Chairman, Board of Commissioners for Clatsop County, P.O. Box 179, Astoria, Oreg. 97103.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Clatsop County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 990, which added Section 110 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968) (Title 1103 to the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Astoria, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert W. Palmer, Chairman, Board of Commissioners for Clatsop County, P.O. Box 179, Astoria, Oreg. 97103.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Lincoln County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 990, which added Section 110 to the National Flood Insurance Program (Title 1103 to the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

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ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Astoria, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert W. Palmer, Chairman, Board of Commissioners for Clatsop County, P.O. Box 179, Astoria, Oreg. 97103.

FOR FURTHER INFORMATION CONTACT:
PROPOSED RULES

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

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<tr>
<th>Location</th>
<th>Elevation</th>
<th>Vertical Datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Umpqua River</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>North Fork</td>
<td>203</td>
<td></td>
</tr>
<tr>
<td>Nehalem River</td>
<td>390</td>
<td></td>
</tr>
<tr>
<td>Cow Creek</td>
<td>482</td>
<td></td>
</tr>
<tr>
<td>Fishhawk Creek</td>
<td>452</td>
<td></td>
</tr>
<tr>
<td>Neawanna Creek</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Plympton Creek</td>
<td>15</td>
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</tbody>
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PROPOSED NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for the selected locations in Douglas County, Oreg. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Douglas Avenue, Roseburg, Oreg. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John DeCicco, Board of Commissioners, Douglas County, County Courthouse, Douglas Avenue, Roseburg, Oreg., 97470.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5561 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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Issued: September 8, 1977.

Patricia Roberts Harris, Secretary.

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Tillamook County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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</tr>
</tbody>
</table>

Issued: September 8, 1977.

Patricia Roberts Harris, Secretary.

(Federal Register, Vol. 42, No. 191, Monday, October 3, 1977)
PROPOSED RULES

Source of flooding Location Elevation in feet, national geodetic vertical datum

Nehalem River, Oregon Coast Highway 10

Nehalem River. Camp Four Road 22

Nehalem River. Camp Four Road 22

Nehalem River, Camp Four Road 22

Nehalem River, Camp Four Road 22

Nehalem River. Camp Four Road 22

Miami River. Squaw Creek Bridge 28

Miami River. Squaw Creek Bridge 28

Miami River. Squaw Creek Bridge 28

Miami River. Squaw Creek Bridge 28

Miami River. Squaw Creek Bridge 28

Miami River. Squaw Creek Bridge 28

Klickitat River. Southern Pacific RR. Bridge 9

Klickitat River. Squaw Creek Bridge 28

Klickitat River. Squaw Creek Bridge 28

Klickitat River. Squaw Creek Bridge 28

Klickitat River. Squaw Creek Bridge 28

Klickitat River. Squaw Creek Bridge 28

Wilson River. Wilson River Bridge 12

Wilson River. Wilson River Bridge 12

Wilson River. Wilson River Bridge 12

Wilson River. Wilson River Bridge 12

Wilson River. Wilson River Bridge 12

Wilson River. Wilson River Bridge 12

Houquarton Blough. Houquarton Blough Bridge 110

Houquarton Blough. Houquarton Blough Bridge 110

Houquarton Blough. Houquarton Blough Bridge 110

Houquarton Blough. Houquarton Blough Bridge 110

Houquarton Blough. Houquarton Blough Bridge 110

Houquarton Blough. Houquarton Blough Bridge 110

Trask River. Suitwoll Bridge 10

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Trask River. Suitwoll Bridge 10

Trask River. Suitwoll Bridge 10

Trask River. Suitwoll Bridge 10

Trask River. Suitwoll Bridge 10

Tillamook River. Tillamook River Bridge (Nortars) 10

Tillamook River. Tillamook River Bridge (Nortars) 10

Tillamook River. Tillamook River Bridge (Nortars) 10

Tillamook River. Tillamook River Bridge (Nortars) 10

Tillamook River. Tillamook River Bridge (Nortars) 10

Tillamook River. Tillamook River Bridge (Nortars) 10

Three Rivers. Burton Bridge 11

Three Rivers. Burton Bridge 11

Three Rivers. Burton Bridge 11

Three Rivers. Burton Bridge 11

Three Rivers. Burton Bridge 11

Three Rivers. Burton Bridge 11

Nestucca River. Pacific City Bridge 14

Nestucca River. Pacific City Bridge 14

Nestucca River. Pacific City Bridge 14

Nestucca River. Pacific City Bridge 14

Nestucca River. Pacific City Bridge 14

Nestucca River. Pacific City Bridge 14


PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-20442 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]
[Docket No. FZ-3410]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Kansas City, Mo.

AGENCY: Federal Insurance Administration, HUD.

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national good vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dyke Branch</td>
<td>Holmes Rd</td>
<td>727</td>
</tr>
<tr>
<td>Jewelry Creek</td>
<td>Carney Rd</td>
<td>735</td>
</tr>
<tr>
<td>Hickory Creek</td>
<td>Clay Bluff Rd</td>
<td>745</td>
</tr>
<tr>
<td></td>
<td>Brown Rd</td>
<td>731</td>
</tr>
<tr>
<td></td>
<td>Cly Bldg Rd</td>
<td>727</td>
</tr>
</tbody>
</table>


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-28443 Filed 8-30-77;8:45 am]

SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by section 19103 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national good vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Fork Branch</td>
<td>401st St</td>
<td>569</td>
</tr>
<tr>
<td></td>
<td>Hack Rd</td>
<td>523</td>
</tr>
<tr>
<td></td>
<td>138000 Rd</td>
<td>523</td>
</tr>
</tbody>
</table>

(32 FR 17684, November 28, 1968), as amended; 42 U.S.C. 4001-4126; and Secretary's delegation of authority to Federal Insurance Administrator, 24 FR 2586, February 27, 1959, as amended (32 FR 2787, January 24, 1974.).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-28443 Filed 8-30-77;8:45 am]

SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by section 19103 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
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<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national good vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Fork Branch</td>
<td>401st St</td>
<td>569</td>
</tr>
<tr>
<td></td>
<td>Hack Rd</td>
<td>523</td>
</tr>
<tr>
<td></td>
<td>138000 Rd</td>
<td>523</td>
</tr>
</tbody>
</table>

(32 FR 17684, November 28, 1968), as amended; 42 U.S.C. 4001-4126; and Secretary's delegation of authority to Federal Insurance Administrator, 24 FR 2586, February 27, 1959, as amended (32 FR 2787, January 24, 1974.).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-28443 Filed 8-30-77;8:45 am]
SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Lyndhurst, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, Valley Brook Avenue, Lyndhurst, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph A. Caan, Township Hall, Valley Brook Avenue, Lyndhurst, N.J. 07071.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-9872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


Issued: August 30, 1977.

Patricia Roberts Harris, Secretary.

[FR Doc.77-28445 Filed 8-30-77; 8:45 am]

PROPOSED RULES

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Brutus, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed flood elevations (100-year flood) listed below for selected locations in the Town of Brutus, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, Valley Brook Avenue, Lyndhurst, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph A. Caan, Township Hall, Valley Brook Avenue, Lyndhurst, N.J. 07071.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-9872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


Issued: August 30, 1977.

Patricia Roberts Harris, Secretary.

[FR Doc.77-28445 Filed 8-30-77; 8:45 am]

PROPOSED RULES

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Brutus, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed flood elevations (100-year flood) listed below for selected locations in the Town of Brutus, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, Valley Brook Avenue, Lyndhurst, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph A. Caan, Township Hall, Valley Brook Avenue, Lyndhurst, N.J. 07071.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-9872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


Issued: August 30, 1977.

Patricia Roberts Harris, Secretary.

[FR Doc.77-28445 Filed 8-30-77; 8:45 am]

PROPOSED RULES

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Brutus, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed flood elevations (100-year flood) listed below for selected locations in the Town of Brutus, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, Valley Brook Avenue, Lyndhurst, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph A. Caan, Township Hall, Valley Brook Avenue, Lyndhurst, N.J. 07071.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-9872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


Issued: August 30, 1977.

Patricia Roberts Harris, Secretary.

[FR Doc.77-28445 Filed 8-30-77; 8:45 am]

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-2844 Filed 9-30-77;8:45 am]

[4210-01 ]

[24 CFR Part 1917] [Docket No. FK-3414]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Ellicottville, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Ellicottville, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to adopt or show evidence of being already in effect in order to qualify for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Clerk's Office at the Franklinville Town Hall. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles J. Morton, Town Supervisor of Franklinville, Town Hall, Franklinville, N.Y. 14737.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-2844 Filed 9-30-77;8:45 am]

[4210-01 ]

[24 CFR Part 1917] [Docket No. FK-3414]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Franklinville, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Franklinville, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Clerk's Office at the Franklinville Town Hall. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles J. Morton, Town Supervisor of Franklinville, Town Hall, Franklinville, N.Y. 14737.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-2844 Filed 9-30-77;8:45 am]
FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872; Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Huntington, Suffolk County, N.Y. These base flood elevations are the basis for the flood plain management requirements which are required to be either adopted or shown evidence of being already in effect in order for the community to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of general circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Huntington Town Hall, the lobby, 227 Main Street, Huntington, N.Y. 11743. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Kenneth C. Butterfield, Supervisor of Huntington, 227 Main Street, Huntington, N.Y. 11743.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Fort Edward, Washington County, N.Y. listed below for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Great Valley Creek</td>
<td>Monroe St.</td>
<td>1,553</td>
</tr>
<tr>
<td></td>
<td>Martha St.</td>
<td>1,555</td>
</tr>
<tr>
<td></td>
<td>Confluence with Chelsea Creek</td>
<td>1,558</td>
</tr>
<tr>
<td></td>
<td>Elks Creek</td>
<td>1,558</td>
</tr>
<tr>
<td>Plum Creek</td>
<td>Confluence with Great Valley Creek</td>
<td>1,558</td>
</tr>
<tr>
<td></td>
<td>Jefferson St.</td>
<td>1,552</td>
</tr>
<tr>
<td></td>
<td>Village boundary</td>
<td>1,566</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Island Sound</td>
<td>Cold Spring Harbor</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Eaton's Neck</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Centerport Harbor</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Northport Harbor</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Great Neck</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Huntington Harbor</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PROPOSED RULES

SUPPLEMENTARY INFORMATION:


These elevations together with the flood plain management measures required by Section 1010.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the secondary layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Saugus River......</td>
<td>2,200 ft downstream of State Highway 20...........</td>
<td>1,091</td>
</tr>
<tr>
<td></td>
<td>1,215 ft upstream of Main St.......................</td>
<td>1,073</td>
</tr>
<tr>
<td></td>
<td>Grand St............................................</td>
<td>1,081</td>
</tr>
<tr>
<td></td>
<td>Downtown of town above Glisan.....................</td>
<td>1,034</td>
</tr>
<tr>
<td></td>
<td>500 ft upstream of downtown.......................</td>
<td>1,097</td>
</tr>
<tr>
<td></td>
<td>1,200 ft downstream of abandoned railroad bridge.</td>
<td>1,093</td>
</tr>
<tr>
<td>Onondaga Creek....</td>
<td>500 ft upstream of confluence with Mill Race....</td>
<td>1,062</td>
</tr>
<tr>
<td></td>
<td>515 ft upstream of Main St........................</td>
<td>1,111</td>
</tr>
<tr>
<td></td>
<td>375 ft upstream of Main St........................</td>
<td>1,115</td>
</tr>
<tr>
<td></td>
<td>235 ft upstream of Center St.....................</td>
<td>1,123</td>
</tr>
<tr>
<td></td>
<td>Downtown of Syracuse..............................</td>
<td>1,141</td>
</tr>
<tr>
<td></td>
<td>1,235 ft upstream of Oneonta........................</td>
<td>1,123</td>
</tr>
<tr>
<td></td>
<td>435 ft upstream of Oneonta........................</td>
<td>1,113</td>
</tr>
<tr>
<td></td>
<td>1,200 ft upstream of Wilbur Park..................</td>
<td>1,153</td>
</tr>
<tr>
<td></td>
<td>1,215 ft upstream of High School Dr..............</td>
<td>1,153</td>
</tr>
<tr>
<td></td>
<td>1,200 ft upstream of High School Dr..............</td>
<td>1,209</td>
</tr>
<tr>
<td></td>
<td>1,190 ft upstream of High School Dr..............</td>
<td>1,211</td>
</tr>
<tr>
<td></td>
<td>1,170 ft upstream of High School Dr..............</td>
<td>1,214</td>
</tr>
<tr>
<td></td>
<td>1,160 ft upstream of High School Dr..............</td>
<td>1,215</td>
</tr>
<tr>
<td></td>
<td>1,150 ft upstream of High School Dr..............</td>
<td>1,214</td>
</tr>
<tr>
<td></td>
<td>1,140 ft upstream of High School Dr..............</td>
<td>1,210</td>
</tr>
<tr>
<td>Mill Race.........</td>
<td>3,475 ft upstream of Main St.......................</td>
<td>1,073</td>
</tr>
<tr>
<td></td>
<td>1,200 ft upstream of Oneonta........................</td>
<td>1,065</td>
</tr>
</tbody>
</table>


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28450 Filed 9-30-77; 8:45 am]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oneonta, Otsego County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Van Buren, Onondaga County, N.Y.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Municipal Building, Oneonta, N.Y. 13820.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable James F. Lettis, Mayor, City of Oneonta, Municipal Building, Oneonta, N.Y. 13820.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-
PROPOSED RULES

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, (notional geodetic vertical datum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seneca River</td>
<td>Cordell Rd.</td>
<td>371</td>
</tr>
<tr>
<td></td>
<td>County Route 800, W</td>
<td>376</td>
</tr>
<tr>
<td></td>
<td>Upstream corporate</td>
<td>381</td>
</tr>
<tr>
<td>Dead Creek</td>
<td>Villgro Rd.</td>
<td>379</td>
</tr>
<tr>
<td></td>
<td>Ranger Rd.</td>
<td>379</td>
</tr>
<tr>
<td></td>
<td>Horse Rd.</td>
<td>388</td>
</tr>
<tr>
<td></td>
<td>Dead Creek Rd.</td>
<td>389</td>
</tr>
<tr>
<td></td>
<td>Warners Rd.</td>
<td>389</td>
</tr>
<tr>
<td></td>
<td>Eldorberry Rd.</td>
<td>405</td>
</tr>
<tr>
<td></td>
<td>Interlake Rd.</td>
<td>409</td>
</tr>
<tr>
<td></td>
<td>Cordell Rd.</td>
<td>410</td>
</tr>
<tr>
<td></td>
<td>Upstream corporate</td>
<td>411</td>
</tr>
</tbody>
</table>

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Crandon, Town Supervisor of Van Buren, 7875 Van Buren Road, Baldwinsville, N.Y. 13027.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5961 or toll free line 800-424-5072, Room 2270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premiums for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

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<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, (notional geodetic vertical datum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jackson Branch...</td>
<td>Slaicer Rd.</td>
<td>0/0</td>
</tr>
<tr>
<td>East Spencer High</td>
<td>Golden Rd.</td>
<td>0/0</td>
</tr>
<tr>
<td></td>
<td>Grant Rd.</td>
<td>0/0</td>
</tr>
<tr>
<td></td>
<td>Dox Rd.</td>
<td>0/0</td>
</tr>
<tr>
<td>Ice Plant Creek...</td>
<td>Boundary Rd.</td>
<td>0/0</td>
</tr>
<tr>
<td>Railroad Branch...</td>
<td>Pine Trk Dr.</td>
<td>0/0</td>
</tr>
<tr>
<td></td>
<td>Slaicer Rd.</td>
<td>0/0</td>
</tr>
</tbody>
</table>

1 Downstream side.
2 Upstream side.
PROPOSED RULES


Issued August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-29454 Filed 9-30-77; 7:18 am]

[4210-01 ]

[24 CFR Part 1917]

[Docket No. FT-3423]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Landis, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Landis, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Insurance Program (NFIP).

DATES: The perion for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Main Street, Nashville, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. L.R. Hollarian, Jr., County Manager, County Courthouse, Main Street, Nashville, N.C. 27862.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 204-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(National flood datum)</td>
<td></td>
</tr>
</tbody>
</table>

| Mill Creek | Hydro Ave. | 11 |
| Beaver Creek | Breeze St. | 12 |
| Correll Creek | Friendship Dr. | 13 |
| Town Branch | Town St. | 14 |
| Grants Creek | Merlot St. | 15 |

1 Downstream site.
2 Upstream site.

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-29454 Filed 9-30-77; 7:18 am]

[4210-01 ]

[24 CFR Part 1917]

[Docket No. FT-3423]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Nash County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Nash County, N.C. These base flood elevations are available for review at Town Hall, 136 North Central Avenue, Landis, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Gene Landis, P.O. Drawer 165, Landis, N.C. 28088.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 204-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(National flood datum)</td>
<td></td>
</tr>
</tbody>
</table>

| Swift Creek | South Fork Line | 16 |
| BB | U.S. Route 24 | 17 |
| North Carolina | Route 49 | 18 |
| Indian | North Carolina | 19 |
| North Carolina | Route 12 | 20 |
| Combs Creek | North Carolina | 21 |
| Pine Bench Creek | North Carolina | 22 |
| North Carolina | Route 103 | 23 |
| Stony Creek | North Carolina | 24 |
| North Carolina | Route 1244 | 25 |

Swift Creek | South Fork Line | 16 |
BB | U.S. Route 24 | 17 |
North Carolina | Route 49 | 18 |
Indian | North Carolina | 19 |
North Carolina | Route 12 | 20 |
Combs Creek | North Carolina | 21 |
Pine Bench Creek | North Carolina | 22 |
North Carolina | Route 103 | 23 |
Stony Creek | North Carolina | 24 |
North Carolina | Route 1244 | 25 |
SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Lorain, Lorain County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations (100-year flood) are available for review on the first floor, on the Bulletin Board, outside the Clerk of the Council’s Office, City Hall, 200 West Erie Avenue, Lorain, Ohio 44052.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 3270, 451 Seventh Street SW, Washington, D.C.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Lorain, Lorain County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, as amended) and 42 U.S.C. 4001–4123, and 24 CFR Part 1917. These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time adopt stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

**PROPOSED RULES**

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Datum</th>
</tr>
</thead>
</table>

**[4210–01]**

**[24 CFR Part 1917]**

**[Docket No. FR–3428]**

**NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Niles, Ohio**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Niles, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 34 West State Street, Niles, Ohio. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Arthur M. Douth, City Hall, 34 West State Street, Niles, Ohio 44444.
PROPOSED RULES

For further information contact:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5851 or toll free line 800-424-8873, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

Supplementary information:

These elevations together with flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents. The community may at any time adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

Dates: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

Addresses: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the post Office, Durham, Pa. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. David Rau, Secretary of the Board of Supervisors of Durham, Pa. 18039.

For further information contact:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5851 or toll free line 800-424-8873, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

Supplementary information:

Issued: August 30, 1977.

Patsie Roberts Harris, Secretary.


Issued: August 30, 1977.

Patsie Roberts Harris, Secretary.

[FR Doc. 77-28468 Filed 9-30-77; 8:45 am]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of New Castle, Lawrence County, Pa.

Agency: Federal Insurance Administration, HUD.

Action: Proposed rule.

Summary: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of New Castle, Lawrence County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

Dates: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

Addresses: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations (100-year flood) listed below for selected locations in the City of New Castle, Lawrence County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

Issued: August 30, 1977.

Patsie Roberts Harris, Secretary.

[FR Doc. 77-28468 Filed 9-30-77; 8:45 am]
flood elevations are available for review at the First Floor, New Castle City Hall, North Jefferson Street, New Castle, Pa. 16101.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Francis M. Rogan, Mayor of New Castle, New Castle City Hall, North Jefferson Street, New Castle, Pa. 16101.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mahoning River.....</td>
<td>Upstream corporate limit</td>
<td>785</td>
</tr>
<tr>
<td>Conrail bridge ..........</td>
<td></td>
<td>752</td>
</tr>
<tr>
<td>Confluence of Shenango River.</td>
<td></td>
<td>777</td>
</tr>
<tr>
<td>Shenango River.....</td>
<td>Upstream corporate limit</td>
<td>805</td>
</tr>
<tr>
<td>Confluence of Neshannock Creek.</td>
<td></td>
<td>800</td>
</tr>
<tr>
<td>Mahoning Ave.......</td>
<td></td>
<td>784</td>
</tr>
<tr>
<td>Route 663 ..........</td>
<td></td>
<td>777</td>
</tr>
<tr>
<td>Confluence of Mahoning River.</td>
<td></td>
<td>800</td>
</tr>
<tr>
<td>Neshannock Creek. Upstream corporate limit</td>
<td></td>
<td>500</td>
</tr>
<tr>
<td>Paper Mill Rd ..........</td>
<td></td>
<td>733</td>
</tr>
<tr>
<td>Confluence of Shenango River.</td>
<td></td>
<td>780</td>
</tr>
<tr>
<td>Big Run..........</td>
<td>Upstream corporate limit</td>
<td>822</td>
</tr>
<tr>
<td>Monastery St.........</td>
<td></td>
<td>794</td>
</tr>
</tbody>
</table>

PROPOSED RULES


PATRICIA ROBERTS HARRIS, Secretary.

[FED Reg. 77-28459 Filed 0-30-77; 8:45 am] [24 CFR Part 1917] [Docket No. F1-3427]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Port Allegany, McKean County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood listed below for selected locations in the Borough of Port Allegany, McKean County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board at the Borough Office Building. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. M. A. Greenfield, Borough Manager, Borough Office Building, Port Allegany, Pa.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegheny River...</td>
<td>U.S. Route 60 ..........</td>
<td>1474</td>
</tr>
<tr>
<td>Mill St. ..........</td>
<td></td>
<td>1474</td>
</tr>
<tr>
<td>Lillibridge Creek...</td>
<td>Conrail bridge ..........</td>
<td>1444</td>
</tr>
<tr>
<td>Mill St. ..........</td>
<td></td>
<td>1466</td>
</tr>
<tr>
<td>Arnold Ave. ..........</td>
<td>Upstream corporate limit</td>
<td>1513</td>
</tr>
</tbody>
</table>


PATRICIA ROBERTS HARRIS, Secretary.

[FED Reg. 77-28460 Filed 0-30-77; 8:45 am] [24 CFR Port 1917] [Docket No. F1-3433]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Reform, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood listed below for selected locations in the Town of Reform, Ala. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board at the Borough Office Building. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. M. A. Greenfield, Borough Manager, Borough Office Building, Port Allegany, Pa.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet above mean sea level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trinity Creek. Upstream corporate limit</td>
<td></td>
<td>1444</td>
</tr>
<tr>
<td>Mill St. ..........</td>
<td></td>
<td>1466</td>
</tr>
<tr>
<td>Arnold Ave. ..........</td>
<td>Upstream corporate limit</td>
<td>1513</td>
</tr>
</tbody>
</table>

(Federal Register, Vol. 42, No. 191—Monday, October 3, 1977)
FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of these flood elevations (100-year flood) listed below for selected locations in the city of West Helena, Phillips County, Ark. Due to recent engineering analyses, this notice revises the proposed determinations of base flood elevations published in 42 FR 36809 on July 13, 1977, and in the Twin City Tribune published on April 27 and May 4, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of West Helena, Phillips County, Ark. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jesse E. Porter, 98 Plaza, West Helena, Ark. 72390.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
Proposed flood elevations (100-year flood) are listed below for selected locations in the City of West Helena, Phillips County, Arkansas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator.


ACTION: Final rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the

[4210-01] [24 CFR Part 1917] [Doc No. 77-28461]

NATIONAL FLOOD INSURANCE PROGRAM
Revised Proposed Flood Elevation Determinations for the City of West Helena, Phillips County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of West Helena, Phillips County, Ark. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jesse E. Porter, 98 Plaza, West Helena, Ark. 72390.

FOR FURTHER INFORMATION CONTACT:
City of Costa Mesa, Calif. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be 90 days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 77 Fair Drive, Costa Mesa, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Richard Krimm, City Manager, City of Costa Mesa, City Hall, 77 Fair Drive, Costa Mesa, Calif. 92626.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5561 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.


Issued August 30, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-28463 Filed 9-30-77; 8:45 am]

[4210-01 ] [24 CFR Part 1917 ] [Docket No. FI-3809]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations Mesa County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood), listed below for selected locations in Mesa County, Colo. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be 90 days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Third and Rood Avenue, Grand Junction, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Howard Roland, Chairman, Board of County Commissioners, Mesa County, P.O. Box 997, Grand Junction, Colo. 81501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5561 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-28464 Filed 9-30-77; 8:45 am]

[4210-01] [24 CFR Part 1917] [Docket No. FI-3809]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the Town of Trumbull, Fairfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Trumbull, Fairfield County, Conn. Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 34462 on July 5, 1977, and in the Trumbull Times published on June

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
### Proposed Rules

<table>
<thead>
<tr>
<th>Source of Flooding</th>
<th>Location</th>
<th>Elevation in feet (vertical datum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tributary A</td>
<td>Cold Spring</td>
<td>431</td>
</tr>
<tr>
<td>Tributary B</td>
<td>Union Village</td>
<td>431</td>
</tr>
<tr>
<td>Tributary C</td>
<td>New Hope</td>
<td>303</td>
</tr>
</tbody>
</table>

#### Action

**Proposed Flood Elevations**

- **Tract D**: Cold Spring Rd., 431 ft.
- **Eiland Brook**: Cold Spring Rd., 431 ft.
- **Tract C**: Union Village Rd., 303 ft.
- **Tract A**: New Hope Rd., 431 ft.

**Proposed Flood Elevations for Selected Locations**

- **Tributary A**: Cold Spring Rd., 431 ft.
- **Tributary B**: Union Village Rd., 303 ft.
- **Tributary C**: New Hope Rd., 431 ft.

**Dates:**

- **Proposed Flood Elevations**
  - Effective January 28, 1969
  - Amended: 24 CFR Part 1917

**Issued:**

- August 30, 1977

**Secretary:**

- Patricia Roberts Harris

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determinations**

**Agency:** Federal Insurance Administration, HUD.
PROPOSED RULES

Source of Flooding | Location | Elevation in feet (national geodetic vertical datum)
-------------------|----------|----------------------------------------
Christina River... | State Route 41 and 141 (downstream side) | 14
                      | State Route 41 and 141 (downstream side) | 15
                      | State Route 41 and 141 (downstream side) | 16

Proposed Flood Elevation Determinations for the County of Kankakee, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Peoria County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board at the Courthouse, Peoria County Courthouse, 300 Main Street, Peoria, Ill., 61602.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.


These elevations together with the flood plain management measures required by section 1010.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding | Location | Elevation in feet (national geodetic vertical datum)
-------------------|----------|----------------------------------------
Kankakee River... | Kankakee County | 556
                   | Rock Creek... | 560
                   | Wilby Creek... | 563
                   | Davis Creek... | 562
                   | Intestate 57... | 607
                   | Con B... | 656
                   | Farr Creek... | 611
                   | Maple Grove... | 612
                   | Menomonee corporate... | 617
                   | Stream... | 623
                   | Trim Creek... | 625
                   | Con Rail... | 626
                   | Ship Creek... | 630
                   | Lillian Heights... | 628
                   | Kankakee... | 630
                   | Indiana State... | 619
                   | Iroquois River... | 606
                   | Confluence with... | 606
                   | Kankakee River... | 611
                   | Minnies Creek... | 612
                   | Sugar Island... | 616
                   | Deer Creek... | 617

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28467 Filed 9-30-77; 8:45 am]
PROPOSED RULES

[4210-01] [24 CFR Part 1917] [Docket No. FT-9401]
NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lindsborg, McPherson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lindsborg, McPherson County, Kans. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of general circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Lindsborg, Kans.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Alden Shields, City Administrator of Lindsborg, City Hall, Lindsborg, Kans. 67450.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-776-5581 or toll free line 800-624-8872, Room 3210, 451 Seventh Street, Southwest, Washington, D.C. 20410.


These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents, and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet
|-------------------|----------|-----------------|
| Illinois River    | Downstream County, Kans. | 455
|                  | City of Lindsborg, Kans. | 457
|                  | Chicago and North-Western Railway, IL (1927) | 426
|                  | Peoria Lock and Dam | 429
|                  | Upstream county, Kans. | 461
| Kickapoo Creek   | Downstream of Kickapoo Creek | 400
|                  | Adams St. | 494
|                  | Illinois Highway 167 | 489
|                  | Federal Rd. | 499
|                  | Johnson Rd. | 499
|                  | Main St. | 499
|                  | Conference of Big Hickory Creek, U.S. Interstate 74 | 494
|                  | Esmer Rd. (extended) | 493
|                  | Conference of Deer | 506
|                  | Rock Run | 507
|                  | New Country Rd., Kans. | 510
|                  | Illinois Highway 295 | 510
|                  | Conference of Warsaw | 513
|                  | Conference of Rupp | 516
|                  | Krum Rd. | 519
|                  | Conference of Nison | 519
|                  | Conference of Fred | 523
|                  | U.S. Interstate 74 | 531
|                  | U.S. Interstate 75 | 531
|                  | Conference of Jubilee Creek | 549
|                  | County Rd. No. 8, Kans. | 549
|                  | Conference of Fargo | 549
|                  | County Rd. No. 21, Kans. | 559
| Spoon River      | Downstream county, Kans. | 608
|                  | County Rd. No. 8, Kans. | 619
|                  | White Rd. | 614
|                  | Illinois Highway 78 | 614
|                  | Lesa Rd. | 621
|                  | Mabel Rd. | 621
|                  | Upstream county, Kans. | 625

(Issued: August 30, 1977.)

PATRICIA ROBERTS HARRIS,
Secretary.
ADDITIONS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Judge's Office in the basement of the County Jail, Main Street, Beattyville, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Charles Beach III, Peoples Exchange Bank, Beattyville, Ky. 41311.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

These elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDITIONS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Clayton, Concordia Parish, La.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Clayton, Concordia Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDITIONS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Columbia, Caldwell Parish, La.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Columbia, Caldwell Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDITIONS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Columbia, Caldwell Parish, La.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Columbia, Caldwell Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDITIONS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Clayton, Concordia Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be sixty days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDITIONS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:
be ninety days following the second public publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSSSS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Columbia, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor James G. Sherman, P.O. Box 101, Columbia, La. 71418.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Columbia, Caldwell Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-446), 42 U.S.C. 4001-4128, and 24 CFR Part 11017. These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>Vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ouachita River.....</td>
<td>Intersection of Ken...</td>
<td>73</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Upper sump.........</td>
<td>East Pearl St.........</td>
<td>57</td>
<td></td>
</tr>
</tbody>
</table>
| (National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968)), effective January 28, 1969 (33 FR 17894, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary’s delegation of authority to Federal Insurance Ad-

ministrator, 24 FR 2580, February 27, 1959, as amended (39 FR 27877, January 24, 1974.)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, 
Secretary.

[FD Doc. 77-28473 Filed 9-30-77; 8:45 am]

[4210-01 ] [24 CFR Part 1107] [Docket No. FT-0404]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Iberville Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the unincorporated areas of Iberville Parish, La. These base flood elevations are the basis for the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>Vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mississippi River..</td>
<td>Eastern limits...</td>
<td>39</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Bayou Paul........</td>
<td>Upland of Bayou Paul...</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Lower Grand River...</td>
<td>Lower Grand River...</td>
<td>6</td>
<td></td>
</tr>
</tbody>
</table>


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS, 
Secretary.

[FD Doc. 77-28473 Filed 9-30-77; 8:45 am]

[4210-01 ] [24 CFR Part 1107] [Docket No. FT-0405]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Melville, St. Landry Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Melville, St. Landry Parish, La. These base flood elevations are the basis for the flood plain management meas-
PROPOSED RULES


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FED Doc. 77-28474 Filed 9-30-77; 8:45 am]

4210-01] [24 CFR Part 1917]
(Docket No. FI-34061)

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Brewer, Penobscot County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Brewer, Penobscot County, Maine. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Melville, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph Artall, P.O. Box 256, Melville, La. 71353.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 775-5581, or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:


These elevations together with the floodplain management measures required by Section 1910.3 of the program regulations are the minimum that are required. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the secondary layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penobscot River...  Downstream corporate limits</td>
<td>14</td>
<td></td>
</tr>
<tr>
<td>Upstream of Bangor waterworks dam</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>At the upstream corporate limits</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Fall Brook........  317 ft upstream from confluence with Penobscot River</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>At State Route 15</td>
<td>14</td>
<td></td>
</tr>
<tr>
<td>At State Route 1</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Bridgeport Dam</td>
<td>23</td>
<td></td>
</tr>
<tr>
<td>Fall Brook........  524 ft upstream from Maine Central RR</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Penobscot River...  317 ft upstream from State Route 1</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>At State Route 6</td>
<td>33</td>
<td></td>
</tr>
</tbody>
</table>

SUPPLEMENTARY INFORMATION:


These elevations together with the floodplain management measures required by Section 1910.3 of the program regulations are the minimum that are required. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the secondary layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atchafalaya River...  4th St. (extended to corporate limits)</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Interaction of Texas and Florida H.R., with the existing corporate limits</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Pending..............  Melville ring levee</td>
<td>23</td>
<td></td>
</tr>
</tbody>
</table>

See FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
PROPOSED RULES

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Acton, Mass. These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice, or wishing to make a comment on these proposed elevations should immediately notify Mr. Christopher J. Farrell, Town Manager, Town of Acton, P.O. Box 238, Acton, Mass. 01720.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8372, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.


These elevations, together with the floodplain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or local entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Location</th>
<th>Elevations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Centrevill Brook</td>
<td>Measured Datum 120.00</td>
</tr>
<tr>
<td>Nobob Brook</td>
<td>Measured Datum 120.00</td>
</tr>
<tr>
<td>Fort Pond Brook</td>
<td>Measured Datum 120.00</td>
</tr>
<tr>
<td>Assabet River</td>
<td>Measured Datum 120.00</td>
</tr>
</tbody>
</table>

For a complete list of locations and elevations, please refer to the Federal Register, Vol. 42, No. 191, Monday, October 3, 1977.
**PROPOSED RULES**

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>National geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sudbury River</td>
<td>Upstream of Lee Bridge</td>
<td>122</td>
<td></td>
</tr>
<tr>
<td>Farrar Pond Brook</td>
<td>Downstream of South Great Rd.</td>
<td>135</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Downstream of the wooden foot bridge</td>
<td>138</td>
<td></td>
</tr>
<tr>
<td>Polo Brook</td>
<td>Upstream of Concord Rd. (Route 190)</td>
<td>158</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Upstream of Lincoln Rd.</td>
<td>168</td>
<td></td>
</tr>
<tr>
<td>Hobbs Brook</td>
<td>Upstream of Mill St.</td>
<td>174</td>
<td></td>
</tr>
<tr>
<td>Stony Brook</td>
<td>Upstream of Tower Rd.</td>
<td>172</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Upstream of Pierce Hill Rd.</td>
<td>199</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Upstream of Sandy Ford Rd.</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>Valley Pond</td>
<td>Southern corporate limit, just west of Conant Rd.</td>
<td>176</td>
<td></td>
</tr>
</tbody>
</table>

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of Wisner. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Office, 9384 West Bay City-Forestville Road, Fairgrove, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward Duke, Supervisor, Township of Wisner, Township Office, 9384, West Bay City-Forestville Road, Fairgrove, Michigan 48733.

**FOR FURTHER INFORMATION CONTACT:**
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410


These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>National geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Saginaw Bay</td>
<td>Shore end—Allen Rd.</td>
<td>585</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Munke Rd.</td>
<td>585</td>
<td></td>
</tr>
</tbody>
</table>


Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.
ENVIRONMENTAL PROTECTION AGENCY

STATIONARY GAS TURBINES

Standards of Performance for New Stationary Sources
The proposed standards would limit the concentration of nitrogen oxides (NOx) in the exhaust gases from stationary gas turbines to 0.0075 percent by volume (75 ppm) at 15 percent oxygen on a dry basis. This emission limit would be adjusted upward for turbines with thermal efficiencies greater than 25 percent and upward for turbines burning fuels with a nitrogen content greater than 0.016 percent by weight.

The proposed standards would be referenced to International Standard Organization (ISO) standard day conditions of 288 degrees Kelvin, 60 percent relative humidity, and 101.3 kilopascals (1 atmosphere) pressure. Measured NOx emission levels, therefore, would be adjusted to ISO reference conditions by use of an ambient condition correction factor included in the standard or by a custom ambient condition correction factor developed by the gas turbine manufacturer, owner, or operator and approved for use by EPA. Manufacturers, owners, or operators electing to develop custom ambient condition correction factors, however, would be required to develop such factors in terms of the following variables: combustor inlet pressure, ambient air temperature, and ambient condition correction factor.

Stationary gas turbines with a heat input at peak load from 10.7 to, and including, 100 gigajoules per hour would be exempt from the NOx emission limit for five years from the date of this proposal. Emergency-standyby gas turbines, military gas turbines and firefighting gas turbines would be exempt permanently from the NOx emission limit. In addition, stationary gas turbines using wet controls would be exempt temporarily from the NOx emission limit during those periods when ice fog created smoke plumes. The NOx emission limit for such turbines would be the sum of the NOx emission limit for the gas turbine as defined by the owner or operator of the gas turbine to present a traffic hazard. None of the exemptions mentioned in this paragraph would apply to the SO2 emission limit.

The proposed standards would limit the SO2 concentration in the exhaust gases from stationary gas turbines to 0.015 percent by volume (150 ppm) corrected to 15 percent oxygen on a dry basis, or would limit the sulfur content of the fuel used by any stationary gas turbine to 0.8 percent by weight.

The proposed standards would require NOx emissions from stationary gas turbines by about 70 percent. Based on industry growth projections, by 1982 a reduction in national NOx emissions of about 120,000 tons per year would be achieved. By 1987, the reduction in national NOx emissions would reach about 400,000 tons per year.

The adverse water pollution impact of the proposed standards would be minimal. The quantity of water or steam required for injection into the gas turbines to reduce NOx emissions would be small, less than 5 percent of the water consumed by a comparable size steam/electric power plant using cooling towers.

The solid waste impact of the proposed standards would be negligible. There would also be no adverse noise impact resulting from the proposed standards.

The energy impact of the proposed standards would be small. Gas turbine fuel consumption would be increased from 0 to 5 percent, depending largely on the rate of water injection required to comply with the proposed NOx standard. There would be no energy impact associated with the proposed SO2 standard. Few turbines would require the high water-to-fuel ratio, the energy impact of the standard on large stationary gas turbines would be an increase in fuel consumption of about 5,000 barrels of fuel oil per day. The fifth-year (1987) energy impact of the NOx standard on small stationary gas turbines would be an increase in fuel consumption of about 7,000 barrels of fuel oil per day. This is equivalent to an increase in projected 1983 and 1987 national crude oil consumption of less than 0.03 percent. These estimates are based on assumptions which yield the greatest energy impacts and actual impacts are expected to be much lower.

The economic impact of the proposed standards is considered to be reasonable. The proposed standards would increase the capital investment costs of a gas turbine for most installations by about 1 to 4 percent. For offshore applications, however, such as gas and oil drilling platforms, the increase could be as much as 7 percent. The annualized costs for a gas turbine in all applications would be increased by about 1 to 4 percent, with the largest application, utilities, realizing less than a 2 percent increase.

The proposed standards would increase the total capital investment requirements for all users of large stationary gas turbines by about 26 million dollars by 1982. For the period 1982 through 1987, the standards would increase the capital investment requirements for all users of both large and small stationary gas turbines by about 57 million dollars. Total annualized costs would be increased by about 11 million dollars in 1982 and by about 30 million dollars in 1987. These impacts would result in price increases for the end products or services provided by industrial and commercial users of stationary gas turbines ranging from less than 0.01 percent in the petroleum refining industry to about 0.1 percent in the electric utility industry.
The criteria for an action to be considered major, thereby requiring development of an Economic Impact Analysis (EIA) are: (1) an increase in the fifth-year ammonia use of 100 million barrels or more, (2) a major product price increase of 5 percent, or (3) an increase in national energy consumption of 25,000 barrels of oil per year. The pollutants resulting from the proposed standards would not exceed these criteria, except possibly for offshore applications, where the proposed standards could increase the price of a gas turbine by about 7 percent. Most gas turbines used on offshore oil and gas drilling platforms, however, are likely to have a heat input at peak capacity of less than 107.2 gigajoules per hour (about 10,000 horsepower). Consequently, they would be considered small gas turbines and would be exempt from the standards for five years. In any event, stationary gas turbines sold for offshore applications constitute such a small percentage (estimated at less than 3 percent) of the overall market for gas turbines that they are not considered controllable sources. In the intent of the 5 percent major product price increase criteria for preparation of an EIA, consequently, the proposed standards would not constitute a major action and no EIA has been prepared.

Rationale

Selection of Sources for Control

Assuming existing levels of emission controls, national NO\(_x\) emissions from stationary sources are projected to increase by about 65 percent by 1985. Applying best technology to all new gas turbines would reduce this increase to about 25 percent, but would not prevent it from occurring. This unavoidable increase in NO\(_x\) emissions is attributable largely to the fact that few of the NO\(_x\) emission control techniques currently available can achieve large reductions in NO\(_x\) emissions. Consequently, EPA has assigned a higher priority to the development of standards for major NO\(_x\) emission sources wherever significant reductions in NO\(_x\) emissions can be achieved.

Several studies sponsored by EPA have ranked stationary gas turbines as major controllable sources of NO\(_x\) emissions. One study conducted by the Aerotherm Division of旭硝ス Corporation estimated that oil-fired and gas-fired stationary gas turbines accounted for 2.5 percent of the total NO\(_x\) emissions from stationary sources in the United States in 1972. This same study ranked gas-fired turbines as sixteenth and oil-fired gas turbines as twenty-third in a priority listing of 197 controllable stationary sources of NO\(_x\) emissions. In another study the Research Corp. of New England (RCNE) determined the impact which standards of performance would have on gas turbine emissions of particulates, NO\(_x\), SO\(_x\), HC (hydrocarbons), and CO (carbon monoxide) from stationary sources. Sources were then ranked according to the impact a standard promulgated in 1975 would have on emissions in 1985. This ranking placed gas turbines first on a list of 40 stationary NO\(_x\) emission sources and eighth on a list of 41 stationary SO\(_x\) emission sources.

In 1974, 90 percent of all domestic stationary gas turbine capacity was sold to utilities and the primary use as peaking units. It is expected that this large percentage of sales to utilities will continue in the future due to the many advantages of gas turbines as peaking units. In addition, gas turbine peaking units are often located in large urban centers where power demands are greatest and pollution problems are often most severe. Stationary gas turbines, therefore, are significant contributors to total nationwide emissions of NO\(_x\). They are ranked high on the various listings of sources for which standards of performance should be developed. In addition, the turbines coupled with the probability that many gas turbines will be installed near large urban centers underscores the need for control of NO\(_x\) emissions from stationary gas turbines. Consequently, stationary gas turbines were selected for development of standards of performance.

Selection of Pollutants

The pollutants emitted from stationary gas turbines are particulates, NO\(_x\), SO\(_x\), CO and HC. Combustor modifications (dry control) and water injection (wet control) are demonstrated techniques for reducing NO\(_x\) emissions at reasonable cost and depending on specific emission level selected, could reduce NO\(_x\) emissions by up to 100,000 tons per year in 1982. This is a significant decrease in total nationwide NO\(_x\) emissions. For these reasons, NO\(_x\) emissions from stationary gas turbines were selected for control by standards of performance.

SO\(_x\) emissions from stationary gas turbines depend on the sulfur content of the fuel. Gas turbines normally are fired with internal combustion engines. Under high volatilities of sulfur gas desulfurization (FGD) to control SO\(_x\) emissions from stationary gas turbines is considered unreasonable. Control of SO\(_x\) emissions, therefore, would require combustion of low sulfur fuels rather than the application of FGD. Selection of low sulfur fuels, however, is considered reasonable. Since gas turbines are a major source of SO\(_x\) emissions and firing low sulfur fuels is considered an economically feasible control technique, SO\(_x\) emissions from stationary gas turbines were selected for control by standards of performance.

HC and CO emissions from stationary gas turbines operating at peak load are relatively low because the higher the percentage of peak load at which a turbine operates, the more efficient is the combustion of the fuel. Gas turbines normally operate at 80 to 100 percent of peak load with HC emissions averaging less than 50 ppm and NO\(_x\) emissions averaging less than 500 ppm at 15 percent oxygen. HC and CO emissions from stationary gas turbines, therefore, were not selected for control by standards of performance.

Particulate emissions from stationary gas turbines are not a significant contributor to total nationwide particulate emissions. Consequently, particulate emissions from stationary gas turbines were not selected for control by standards of performance.

Selection of Affected Facilities

Stationary gas turbines can be used in three different configurations: simple cycle, regenerative cycle, and combined cycle. All of these configurations emit NO\(_x\) and SO\(_x\) and all can be controlled for NO\(_x\) emissions by water injection or dry controls and for SO\(_x\) by the firing of low sulfur fuels. Consequently, gas turbines coupled with the probability that many gas turbines will be installed near large urban centers underscores the need for control of NO\(_x\) emissions from stationary gas turbines. Consequently, stationary gas turbines were selected for development of standards of performance.
stationary gas turbines. Gas turbines less than 10.7 gigajoules per hour heat input (about 1,000 hp) account for less than 10 percent of this total. Where this would be the case, the water injection system would not be required for some stationary gas turbines. Below this cutoff the standards limiting NO\textsuperscript{x} and SO\textsubscript{2} emissions would not apply.

Some stationary gas turbines are operated in a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation. This type of gas turbine operates infrequently, under special weather conditions, the impact on national NO\textsuperscript{x} emissions would be minimal. Some stationary gas turbines were exempted from standards of performance limiting NO\textsuperscript{x} emissions.

Stationary gas turbines can contribute to the creation of ice fog, which consists of small ice crystals which are nucleated by airborne particulate. Ice fog occurs at altitudes below 20,000 feet. It is a problem in only a small portion of the United States, primarily Alaska. Ice fog severely restricts visibility and, since it can create long-term, pestilent, and plague auto and air traffic for extended periods. The actual impact of water or steam injection into gas turbines on the formation of ice fog is unknown; however, water or steam injection will increase the moisture content of the exhaust gas discharged by gas turbines. Since ice fog occurs only in a small portion of the United States and only under special weather conditions, the impact on air quality due to increased NO\textsubscript{x} caused by exempting gas turbines creating ice fog would be minimal. Therefore, gas turbines using water or steam injection for control of NO\textsubscript{x} emissions would be exempt from the standards limiting NO\textsubscript{x} emissions when ice fog created by the gas turbine is deemed by the owner or operator of the gas turbine to be a traffic hazard.

Stationary gas turbines are sometimes used by the military in combat-type situations. The main advantage of these turbines is their mobility, which would be considerably restricted by a water injection system consisting of either water treatment equipment or a water storage vessel. Restriction of the mobility of these gas turbines could have an adverse effect on national defense; therefore, any military combat-type gas turbine for use in other than a garrison facility is exempt from the standards limiting NO\textsubscript{x} emissions.

The possibility of exempting some gas turbines from the standard limiting SO\textsubscript{2} emissions was also examined. Except for exempting all turbines of less than 10.7 gigajoules per hour heat input (about 1,000 hp), no exemptions were considered necessary.

**Selection of the Best System of Emission Reduction**

There are three possible control techniques for reducing NO\textsubscript{x} emissions from stationary gas turbines: wet controls, dry controls, and catalytic exhaust cleanup. Wet controls involve the injection of water or steam into the combustion reaction to reduce peak flame temperatures, thereby reducing NO\textsubscript{x} formation. Wet control techniques have been demonstrated on a few large gas turbines (greater than 10,000 hp, although the effectiveness of these techniques for small gas turbines has been demonstrated in laboratory and combustion rig tests. Thus, wet controls are to be applied immediately to large stationary gas turbines, but manufacturers estimate that at least three years would be required to incorporate and test wet control techniques on small production gas turbines.

Dry controls consist of operational or design modifications which govern combustion conditions to reduce NO\textsubscript{x} formation. Although dry controls have been demonstrated in laboratory and combustion rig tests, manufacturers estimate that up to five years is required for further development, design, and incorporation of dry controls on large and small stationary gas turbines.

Catalytic exhaust gas cleanup consists of NO\textsubscript{x} reduction by ammonia in the presence of a catalyst. While laboratory tests are very promising, this technique is not demonstrated for stationary gas turbines. The NO\textsubscript{x} emission reduction achievable with wet and dry control techniques clearly favors the development of standards of performance based on wet controls. Reductions in NO\textsubscript{x} emissions of more than 70 percent have been demonstrated using wet controls. Dry controls, however, have demonstrated NO\textsubscript{x} emission reductions of only about 30 percent. Standards based on wet controls would reduce national NO\textsubscript{x} emissions by about 190,000 tons per year in 1982. In contrast, standards of performance based on dry controls would have no impact on national NO\textsubscript{x} emissions in 1982, due to the necessity of allowing a five-year delay to incorporate dry controls on gas turbines. By 1987, standards based on wet controls would reduce national NO\textsubscript{x} emissions by about 400,000 tons per year, whereas standards based on dry controls would reduce NO\textsubscript{x} emissions by only about 80,000 tons per year. Thus, standards of performance based on wet controls would have a much greater impact on national NO\textsubscript{x} emissions than standards based on dry controls.

The water pollution impact of standards based on wet controls would be minimal. Water needed for wet controls may be treated by the same processes used to treat high-strength makeup water. The quality of the wastewater from this treatment is essentially the same as the influent water except that the concentration of total dissolved solids in the effluent stream is 3 to 4 times that of the influent. In most cases, the effluent may be directed through a settling pond. Consequently, the water pollution impact of standards based on wet controls would be minimal.
capacity will be increased by 3 to 4 percent as a result of water injection. In applications where turbines are operated at maximum capacity, such as utility power generation and pipeline compressors stations, this increased baseload capacity essentially reduces the installed costs per kilowatt by the percentage increase in the useful output of the turbine, thereby slightly reducing the cost impact of standards based on wet controls.

The economic impacts associated with standards based on either wet or dry controls would be small and are considered reasonable. Dry control costs are difficult to quantify. Many manufacturers, however, have indicated that the cost of dry controls would not exceed 1 to 4 percent of capital investment requirements for all wet controls. Standards of performance, therefore, based on either wet or dry controls would increase the capital cost of a gas turbine for most applications by about 4 percent. For offshore industrial applications where desalination equipment is required to provide water for wet controls, standards would result in a 7 percent increase in the annualized cost of a gas turbine. The annualized costs for a stationary gas turbine in all applications would be increased by about 1 to 4 percent, with the annualized cost realization being less than 2 percent increase.

Although it is unlikely that a stationary gas turbine would, of necessity, be installed in an arid area, an analysis was performed of which assumed that water would have to be transported to the gas turbine site by truck over a distance of 50 miles. This unlikely situation would result in less than a 4 percent increase in the annualized cost of the gas turbine, on dry controls, would be comparable. Standards of performance, therefore, based on either wet or dry controls would increase the capital cost of a gas turbine for most applications by about 4 to 7 percent. For offshore industrial applications where desalination equipment is required to provide water for wet controls, standards would result in a 7 percent increase in the annualized cost of a gas turbine. The annualized costs for a stationary gas turbine in all applications would be increased by about 1 to 4 percent, with the annualized cost realization being less than 2 percent increase.

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The objective of an efficiency adjustment factor should be to give an emission credit for the increase in thermal efficiency due to increase in efficiency of high efficiency gas turbines. Since the relative fuel consumption of gas turbines varies linearly with efficiency, a linear efficiency adjustment factor is selected to permit increased NOx emissions from high efficiency gas turbines. A linear efficiency adjustment factor also effectively limits NOx emissions to a constant mass emission rate per unit of power output.

The efficiency adjustment factor must be referenced to a baseline efficiency. Since most existing simple cycle gas turbines fall in the range of 20 to 30 percent efficiency, 25 percent was selected as the baseline efficiency. The efficiency of stationary gas turbines is usually expressed in terms of heat rate which is the ratio of heat input, based on lower heating value (LHV) of the fuel, to the mechanical power output. The heat rate of a gas turbine operating at 25 percent efficiency is 8,160 Btu per hp-hr. Thus, the linear adjustment factor as presented in the regulation was selected to permit increased NOx emissions from high efficiency gas turbines.

The intent of the efficiency adjustment factor is to permit a linear increase in NOx emissions with increased efficiencies above 25 percent. Consequently, the adjustment factor would not be used to adjust the emission limit downward for gas turbines with efficiencies of less than 25 percent.

The rationale for selection of the format for SO2 emissions is much the same as that discussed above for NOx emissions. Thus, to be consistent with the format selected for standards limiting NOx emissions, a concentration standard is chosen as the format for the SO2 standard. An emission limit in terms of percent fuel sulfur content has also been included in the SO2 standard to give the owner or operator the flexibility of either measuring the SO2 concentration of the exhaust gas or analyzing the fuel being burned in the gas turbine. Either format for the SO2 standard can be used since nearly all of the sulfur in the fuel is converted to SO2.

The SO2 emission factor associated with the NOx emission limit would not apply to the SO2 emission limit, however, because SO2 emissions do not vary with turbine efficiency.

Selection of the emission limits

The available data on emission from stationary gas turbines using wet controls comes from simple cycle gas turbine and combustor rig tests. No reliable data was available concerning NOx emissions from regenerative cycle gas turbines using wet controls, although some dry data was obtained. Careful consideration, therefore, was given to the question of whether regenerative cycle gas turbines could be controlled to the same level as simple cycle gas turbines.

There is general agreement that wet controls will give essentially the same percentage reduction in NOx emissions from regenerative cycle gas turbines as simple cycle gas turbines. Thus, the question becomes whether uncontrolled NOx emissions from regenerative cycle gas turbines are higher than those from simple cycle gas turbines. On first consideration, the NOx emissions from regenerative cycle gas turbines appear higher than those from simple cycle gas turbines. Regenerative cycle gas turbines, however, frequently have higher thermal efficiencies than simple cycle gas turbines, and when NOx emissions are plotted against gas turbine thermal efficiency, emissions from regenerative and simple cycle gas turbines appear significantly different. As a result, the application of wet controls to either regenerative or simple cycle gas turbines of comparable thermal efficiencies should reduce NOx emissions to essentially the same level. Consequently, regenerative cycle gas turbines would be subject to the same emission limit as simple cycle gas turbines.

The data also indicate that gas turbines firing gaseous fuels typically have slightly lower controlled NOx emission levels than gas turbines firing distillate fuels. Again, considering only the data representing major NOx control efforts, controlled emissions from gas turbines firing gaseous fuels range from about 15 to 50 ppmv, while controlled emissions from gas turbines firing distillate fuels range from about 25 to 60 ppmv. This slight difference in controlled emission levels does not warrant the selection of a separate emission limit for each type of fuel. Only one emission limit, therefore, was selected which applies to gas turbines burning all types of fuel.

Based on this emission data and allowing for some uncertainty in the limited data base, 75 ppmv NOx corrected to 16 percent oxygen was selected as the numerical emission limit for stationary gas turbines.

The gaseous and premium distillate fuels which have traditionally been burned in stationary gas turbines contain little if any "fuel-bound" or "organic" nitrogen. However, heavy residual fuel oils and crude oils can contain high levels of fuel-bound nitrogen. Total NOx emissions from fuel combustion, for example, including stationary gas turbines, are a function of both thermal NOx and organic NOx formation. Thermal NOx is formed in a well defined high temperature reaction between nitrogen and oxygen from the combustion air. Organic NOx, however, is formed by the combination of fuel-bound nitrogen with oxygen in the gas turbine combustion process. The mechanism is not fully understood. Wet controls are effective for reducing thermal NOx, but are not effective for reducing organic NOx.

Three alternatives were considered to address the fuel-bound nitrogen contribution to total NOx emissions from stationary gas turbines. The first alternative would have exempted heavy or residual fuel oils from standards of performance. This approach would have allowed gas turbines firing heavy residual fuel oils to operate with no emission controls. In addition, the absence of stationing NOx sources would have permitted the more stringent limiting of NOx emissions from gas turbines firing residual fuel oils as a means of avoiding standards of performance.

The second alternative would have been to base standards of performance on the firing of low nitrogen fuels. This approach would have required emission controls on all new, modified, and reconstructed stationary gas turbines, but would have effectively precluded the firing of fuels other than those premium gaseous and distillate fuels which turbines are now using. Firing of heavy or residual fuel oils would have required major breakthroughs in controlling organic NOx formation, or additional refining of these fuels to reduce their nitrogen content (as well as their sulfur content) to a level equivalent to that of premium distillate fuels.

The third alternative would include an adjustment to the NOx emission limit as a function of the fuel-bound nitrogen level in the fuel fired. This approach could be applied to all new stationary gas turbines, but would not restrict new, modified or reconstructed gas turbines to firing premium gaseous and distillate fuels. Thus, stationary gas turbines which would not be penalized for firing heavy fuel oils, nor would there be any added impetus toward the firing of heavy or residual fuel oils in order to evade standards of performance.

As discussed earlier, low sulfur fuels, such as premium distillate fuel oils or natural gas are now being fired by nearly all stationary gas turbines. These premium fuels are being fired primarily because the increased maintenance costs associated with firing heavy fuel oils are greater than the savings that would be realized by buying these less expensive heavy or residual fuel oils. Over the next five to ten years, however, as oil prices continue to escalate, the price differential between premium distillate fuels and heavy fuel oils will probably increase and economic incentive to fire the premium fuel oils will probably become greater. It is also possible that there could be limited supplies of premium distillate fuel oils over the next five to ten years due to declining production of oil and natural gas in the United States. Increased demands for these premium fuels by users other than gas turbines which cannot utilize heavy or residual fuel oils, and the uncertainty of additional crude oil supplies in the world energy markets. In view of the possibility of limited supplies of premium distillate fuel oils, approximately 50 percent of the new gas turbines on order are being designed to allow the owner or operator the flexibility of firing either premium distillate fuel oils, or residual or heavy fuel oils. Consequently, in order to provide gas turbines owners and operators the flexibility to fire either premium or heavy and residual fuels, but to ensure that standards
The effect of ambient atmospheric conditions on \( \text{NO}_x \) emissions from stationary gas turbines is substantial. Large changes in relative humidity, for example, can cause \( \text{NO}_x \) emissions to vary by a factor of two. To ensure that standards of performance are enforced uniformly, therefore, the effect of ambient atmospheric conditions was developed by extracting the common elements from standard ambient condition correction factors proposed by gas turbine manufacturers. This correction factor, therefore, represents the general effect of ambient atmospheric conditions on \( \text{NO}_x \) emissions. Consequently, the ambient condition correction factor, as presented in the regulation, or an alternative correction factor as discussed below, will be used to correct emissions during any performance test to determine compliance with the numerical emission limit.

As an alternative, gas turbine manufacturers, owners, or operators may elect to develop custom ambient condition correction factors for adjusting measured \( \text{NO}_x \) emissions from particular gas turbine models in accordance with the same conditions of pressure (101.3 kilopascals), humidity (60 percent relative humidity), and temperature (288 degrees Kelvin). Some gas turbine manufacturers have proposed ambient condition correction factors which include variables such as fuel-to-air ratios and combustor temperatures. These variables are difficult to measure and are operating parameters which may vary widely and factors other than ambient conditions. For this reason, any custom ambient condition correction factor must be developed in conjunction with data and then approved for use by EPA before they can be used in determining compliance with the \( \text{NO}_x \) emission limit. Ambient condition correction factors must be substantiated with data and those in which the use of such factors would reduce measured emissions levels. Some delay is required before the \( \text{NO}_x \) standard of performance can be applied to small stationary gas turbines. A delay is necessary to provide time for manufacturers to incorporate wet controls on their small production stationary gas turbine models. It is estimated that about three years delay in the effective date of the \( \text{NO}_x \) emissions from stationary gas turbines would be required to allow manufacturers time to incorporate and test wet controls on these gas turbines. Some manufacturers have expressed optimism at being able to meet the \( \text{NO}_x \) standards using dry controls if given about five years delay. Since small gas turbines represent only about 10 to 15 percent of the total \( \text{NO}_x \) emissions from stationary gas turbines, the difference in environmental impact of a three-year versus five-year delay would be small. Additionally, a three-year delay would allow manufacturers time to incorporate wet controls, whereas a five-year delay would provide the flexibility to use wet controls or to develop and use dry controls. Consequently, five years was selected as the delay period for implementation of the \( \text{NO}_x \) emission limit on small stationary gas turbines.

In selecting the size cutoff to differentiate between large and small stationary gas turbines, consideration was given to the purpose of the cutoff and the effect on competitive markets. The purpose of the cutoff is to differentiate between large and small gas turbines where wet controls have been commercially demonstrated and small gas turbines where wet controls, although effective, have not been generally applied on a commercial basis. Consideration of the data reveals that there are two major competitive markets for stationary gas turbines which can be generally described as small gas turbines and large gas turbines. The size cutoff, therefore, between small and large gas turbines was selected as the upper end of this range. Large stationary gas turbines are defined as those with heat input at peak load of greater than 107.2 gigajoules per hour (approximately 10,000 horsepower for a 25 percent efficient gas turbine). The best system of emission reduction, considering costs, selected for \( \text{SO}_2 \) emissions was the firing of low sulfur fuel oils. To be consistent with the objective of the fuel-bound nitrogen allowance, the \( \text{SO}_2 \) emission limit and allow for approximately 50 percent availability of the residual and heavy fuel oils, the \( \text{SO}_2 \) emission limit is selected at 150 ppm referenced to 15 percent \( \text{O}_2 \) which corresponds to a fuel sulfur content of 0.8 percent by weight. The five-year delay of the \( \text{NO}_x \) emission limit applied to small gas turbines (less than 10,000 horsepower) to provide manufacturers time to incorporate wet controls onto their turbines would not apply to the \( \text{SO}_2 \) emission limit since the control technology of burning low sulfur fuels is now available to all turbines.

It should be noted that standards of performance for new sources established under Section 111 of the Act may not reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the adjustment of dry control implementation plans (SIP's) approved or promulgated under Section 110 of the Act on the other hand, must provide for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. For example, EPA's Interpretative Ruling (41 FR 55524, December 21, 1976) on the construction of a new or modified source in an area that exceeds a NAAQS requires, among other things, that the new source must meet an emission limitation which reflects the "lowest achievable emission rate" for such type of control. At the discretion of the permittee, the result achieved in practice would have to be specified unless the applicant can demonstrate that it cannot achieve such a rate. The permit could then be issued with a new testable standard of performance for new sources.

This stringent requirement reflects EPA's judgment that a new source should be allowed to emit pollutants into a particular area violating a NAAQS only if its contribution to the violation is reduced to the greatest degree possible. While the cost of achieving may be an important factor in selecting a standard of performance for new sources applicable to all areas of the country, the cost factor must be accorded far less weight in determining an appropriate emission limitation for a source locating in an area violating statutorily-mandated health and welfare standards. Thus, while there may be technology available for new sources which have been determined not to be available to all turbines.

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emission control system installed to comply with standards of performance is properly operated and maintained, monitoring requirements are generally included in standards of performance. For stationary gas turbines, the most straightforward means of insuring proper operation and maintenance is to monitor emissions released to the atmosphere.

EPA has establishing NOx monitoring performance methods in Appendix B of 40 CFR Part 60 for large industrial sources with well developed velocity and temperature profiles. Stationary gas turbines, however, do not have well developed velocity and temperature profiles in all cases. Gas stratification of the turbine exhaust, for example, makes the location of the sample point critical. Also, since some gas turbines are started remotely from a central location, special systems and data reporting procedures would be necessary to start and maintain continuous monitors.

Currently, NOx continuous monitors operating on gas turbines, and resolution of these sampling problems and development of performance specifications for continuous monitoring systems would develop a separate program. For these reasons, continuous monitoring of NOx emissions from gas turbines would not be required by the proposed standards.

An effective means of ensuring operation of the water injection system used to control NOx emissions from gas turbines is to monitor the water-to-fuel ratio being supplied to the turbine. Both the water and fuel monitors are readily available and are demonstrated technology for use on gas turbines. Consequently, to ensure operation of water injection systems, the proposed standards for stationary gas turbines would require continuous monitoring of the water-to-fuel ratio where water injection is employed to comply with NOx standard. Also, an effective means of ensuring the firing of fuels with the proper nitrogen content to control NOx emissions caused by high nitrogen is to monitor the nitrogen content of the fuel being burned. Consequently, any owner or operator that uses the fuel-to-burner nitrogen allowances to comply with NOx emission limits will be required by the standard to monitor the nitrogen content of the fuel.

The continuous monitoring of SO2 emissions would not be required by the proposed standards for the same reasons continuous monitoring of NOx emissions would not be required. A means of ensuring the firing of low sulfur fuels to control SO2 emissions, however, is to monitor the sulfur content of the fuel being burned. This is already a common practice among gas turbine users. Consequently, to ensure the use of low sulfur fuels by stationary gas turbines to comply with the SO2 emission limit, the standard would require monitoring the sulfur content of the fuel.

SELECTION OF PERFORMANCE TEST METHODS

Reference Method 20, “Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions from Stationary Gas Turbines,” was selected as the performance test method to determine compliance with the standards of performance limiting NOx emissions for stationary gas turbines. This test method is based on procedures for industrial NOx test and on background data for continuous monitoring system specifications (FEDERAL REGISTER, October 6, 1975). Reference Method 20 includes (1) measurement test procedures for the gas turbine system performance specifications and performance test procedures, and (3) procedures for emission sampling. The performance specifications include the span drift, zero drift, linearity check, response time of the system, and interference checks. This method allows a choice of instruments and will provide reliable data if the performance specifications are met.

Both the Society of Automotive Engineers (SAE) and Mobile Source test methods are acceptable alternative methods, if the proposed equipment models are capable of meeting the performance specifications of Reference Method 20. NOx, emission measured by Reference Method 20 will be affected by ambient atmospheric conditions. Consequently, measured NOx emissions would be adjusted during any performance test by an accuracy adjustment factor discussed earlier, or by custom correction factors approved for use by the Administrator.

To determine the fuel-bound nitrogen allowance included as part of the NOx emission limit, the nitrogen content of the fuel must be determined. The analytical methods and procedures employed to determine the nitrogen content of the fuel would be approved by the Administrator and would be accurate to within plus or minus five percent.

In lieu of determining the SO2 concentration of the exhaust from a gas turbine by using Method 20, compliance with the standard may be demonstrated by determining the sulfur content of the fuels being used by the gas turbine. Sulfur content of the fuel will be determined using ASTM D2880-71 for liquid fuels and ASTM D1072-70 for gaseous fuels.

MISCELLANEOUS

As prescribed by Section 111 of the Act, this proposal of standards has been preceded by the Administrator's determination that emissions from stationary gas turbines contribute to air pollution which causes or contributes to the endangerment of public health or welfare, and by his publication of this determination in this issue of the Federal Register. In accordance with Section 117 of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts and Federal department and agencies. The Administrator will welcome comments on all aspects of the proposed regulations, including the designation of stationary gas turbines as a significant contributor to air pollution which causes or contributes to the endangerment of public health or welfare, economic and technological issues, and on the proposed test methods.

Comments are also specifically invited on the severity of the economic impact of the proposed standards on stationary gas turbines located offshore, since a number of interested parties have expressed objection to not exempting the offshore turbines from compliance with the standard. Any comments submitted to the Administrator on this issue, however, should contain specific information and data pertinent to an evaluation of the magnitude of this impact and its severity.

Economic impact analysis: The criteria for an action to be considered major, thereby requiring development of an Economic Impact Analysis (EIA) are: (1) an increase in the fifth-year annualized costs of $100,000 or more, (2) a major product price increase of 5 percent, or (3) an increase in national energy consumption of 25,000 barrels of fuel oil per day. The impacts resulting from the proposed standards would not exceed these criteria, except possibly for some stationary gas turbines sold for offshore oil and gas drilling platforms, where the proposed standards could increase the price of gas oil by 7 percent. Most gas turbines used in the application, however, are likely to have a heat input at peak capacity of less than 107.2 gigajoules per hour (about 10,000 horsepower). Consequently, they would be considered small gas turbines and would be exempt from the standards for five years following proposal of the standards. In any event, however, stationary gas turbines sold for offshore applications constitute such a small percentage (estimated at less than 3 percent) of the overall market for stationary gas turbines that they are not considered a major product within the meaning of the 5 percent major product price increase criteria for an action to be considered major, thereby requiring preparation of an Economic Impact Analysis. The Environmental Protection Agency has determined, therefore, that his proposed action does not constitute a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11281 and 11949 and OMB Circular A-107.


DOUGLAS M. COSTLE, Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart GG—Standards of Performance for Stationary Gas Turbines

Sec. 60.330 Applicability and designation of affected activity.

Sec. 60.331 Definitions.

Sec. 60.332 Standard for nitrogen oxides.

Sec. 60.333 Standard for sulfur dioxide.

Sec. 60.334 Monitoring of operations.

Sec. 60.335 Test methods and procedures.

AUTHORITY: Sections 111 and 306(a) of the Clean Air Act, as amended, [42 U.S.C. 1867e-7, 1867f(a)], and additional authority as noted below.
Subpart GG—Standards of Performance for Stationary Gas Turbines
§ 60.330 Applicability and designation of affected facility.

The provisions of this subpart are applicable to the following affected facilities: all stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour, based on the lower heating value of the fuel fired.

§ 60.331 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Stationary gas turbine" means any simple cycle gas turbine, regenerative cycle gas turbine or any gas turbine portion of a combined cycle steam/electric generating system that is self-propelled. It may, however, be mounted on a vehicle for portability.

(b) "Simple cycle gas turbine" means any stationary gas turbine which does not recover heat from the gas turbine exhaust gas to preheat the inlet combustion air to the gas turbine, or which does not recover heat from the gas turbine exhaust gas to heat water or generate steam.

(c) "Regenerative cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gas to preheat the inlet combustion air to the gas turbine.

(d) "Combined cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gas to heat water or generate steam.

(e) "Emergency gas turbine" means any stationary gas turbine which operates as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation.

(f) "Ice fog" means an atmospheric suspension of highly reflective ice crystals.

(g) "ISO standard day conditions" means 288 degrees Kelvin, 60 percent relative humidity and 101.3 kilopascals pressure.

(h) "Efficiency" means the gas turbine manufacturer's rated heat rate at peak load in terms of heat input per unit of power output based on the lower heating value of the fuel.

(i) "Peak load" means 100 percent of the manufacturer's design capacity of the gas turbine.

(j) "Base load" means the load level at which a gas turbine is normally operated.

(k) "Fire-fighting turbine" means any stationary gas turbine that is used primarily to pump water for extinguishing fires.

§ 60.332 Standard for nitrogen oxides.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere, except as provided in paragraphs (b), (c), and (d) of this section.

(1) From any gas turbine with a heat rate at peak load of more than or equal to 14.4 gigajoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

\[ STD = 0.0075 F + 2 \]

where:

\[ STD = \text{allowable NO} \_x\text{emissions (percent by volume at 15 percent oxygen and on a dry basis)} \]

\[ F = \text{manufacturer's rated heat rate at peak load (kilowatts per watt hour)} \]

(b) From any gas turbine with a heat rate at peak load of less than or equal to 14.4 gigajoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

\[ STD = 0.0075 \left( \frac{144}{F} \right) + F \]

where:

\[ STD = \text{allowable NO} \_x\text{emissions (percent by volume at 15 percent oxygen and on a dry basis)} \]

\[ F = \text{manufacturer's rated heat rate at peak load (kilowatts per watt hour)} \]

(2) From any gas turbine with a heat rate at peak load of less than or equal to 14.4 gigajoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

\[ STD = 0.0075 \left( \frac{144}{F} \right) + F \]

where:

\[ STD = \text{allowable NO} \_x\text{emissions (percent by volume at 15 percent oxygen and on a dry basis)} \]

\[ F = \text{manufacturer's rated heat rate at peak load (kilowatts per watt hour)} \]

(3) F shall be defined according to the nitrogen content of the fuel as follows:

- For fuels with nitrogen content of 0.015 percent to 0.25 percent, the formula is:

\[ F = \text{NO} \_x\text{emissions (percent by volume at 15 percent oxygen and on a dry basis)} \]

- For fuels with nitrogen content of more than 0.25 percent, the formula is:

\[ F = \text{NO} \_x\text{emissions (percent by volume at 15 percent oxygen and on a dry basis)} \]

where:

\[ N = \text{the nitrogen content of the fuel (percent by weight)} \]

(b) Stationary gas turbines with a heat input at peak load of 107.5 gigajoules per hour (100 million Btu/hour) or less, based on the lower heating value of the fuel fired, are exempt from paragraph (a) of this section for a period not to exceed five years from (date of proposal).

(c) Stationary gas turbines using water or steam injection for control of nitrogen oxides emissions, and the graphs or figures developed under § 60.335(a).

§ 60.333 Standard for sulfur dioxide.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere, except as provided in paragraphs (b), (c), and (d) of this section.

(1) The nitrogen oxides emission level required to be met by § 60.8 shall be increased by a correction factor:

\[ \text{Sulfur dioxide emission level} = \text{NOx emission level} \times \left( \frac{F_{\text{SO}}}{F_{\text{NOx}}} \right)^{2.75} \]

where:

\[ F_{\text{SO}} = \text{Sulfur content of the fuel fired, on a dry basis.} \]

\[ F_{\text{NOx}} = \text{NOx emission level for the fuel fired, on a dry basis.} \]

(b) The owner or operator of any stationary gas turbine subject to the provisions of this subpart shall record daily the sulfur content, nitrogen content, and lower heating value of the fuel being fired. The fuel turbine or generator system shall be accurate to within ±5.0 percent and shall be approved by the Administrator.

(c) For the purposes of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as follows:

- Any hour in which the sulfur content of the fuel being fired in the gas turbine exceeds 0.8 percent.

§ 60.334 Monitoring of operations.

(a) The owner or operator of any stationary gas turbine subject to the provisions of this subpart shall conduct the monitoring system to monitor and record the fuel consumption and the ratio of water-to-fuel ratio during the period of the test system shall be accurate to within ±5.0 percent and shall be approved by the Administrator.

(b) The owner or operator of any stationary gas turbine subject to the provisions of this subpart shall record daily the sulfur content, nitrogen content, and lower heating value of the fuel being fired. The fuel turbine or generator system shall be accurate to within ±5.0 percent and shall be approved by the Administrator.

§ 60.335 Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.6(b), shall be used to determine compliance with the standards prescribed in § 60.332 as follows:

(1) Reference Method 29 for the concentration of nitrogen oxides and oxygen.

(b) The nitrogen oxides emission level measured by Reference Method 29 shall be adjusted to ISO standard day conditions by the following ambient condition correction factor:

\[ \text{NOx emission level} = \left( \frac{P_{\text{ref}}}{P_{\text{ambient}}} \right)^{3.5} \times \text{NOx emission level} \times \text{ISO standard day conditions} \]

where:

\[ P_{\text{ref}} = \text{Reference ambient pressure at 101.3 kilopascals (kPa).} \]

\[ P_{\text{ambient}} = \text{Ambient pressure at test ambient pressure.} \]

\[ F_{\text{ISO}} = \text{Inlet air at standard conditions (dry, 15 percent oxygen, 1 atmospheres).} \]

\[ F_{\text{ambient}} = \text{Ambient air at test conditions (dry, 15 percent oxygen).} \]

(1) The nitrogen oxides emission level measured by Reference Method 29 shall be adjusted to ISO standard day conditions by the following ambient condition correction factor:

\[ \text{NOx emission level} = \left( \frac{P_{\text{ambient}}}{P_{\text{ref}}} \right)^{3.5} \times \text{NOx emission level} \times \text{ISO standard day conditions} \]

where:

\[ P_{\text{ambient}} = \text{Ambient pressure at test ambient pressure.} \]

\[ F_{\text{ISO}} = \text{Inlet air at standard conditions (dry, 15 percent oxygen, 1 atmospheres).} \]

\[ F_{\text{ambient}} = \text{Ambient air at test conditions (dry, 15 percent oxygen).} \]

(2) The nitrogen oxides emission level measured by Reference Method 29 shall be adjusted to ISO standard day conditions by the following ambient condition correction factor:

\[ \text{NOx emission level} = \left( \frac{P_{\text{ambient}}}{P_{\text{ref}}} \right)^{3.5} \times \text{NOx emission level} \times \text{ISO standard day conditions} \]

where:

\[ P_{\text{ambient}} = \text{Ambient pressure at test ambient pressure.} \]

\[ F_{\text{ISO}} = \text{Inlet air at standard conditions (dry, 15 percent oxygen, 1 atmospheres).} \]

\[ F_{\text{ambient}} = \text{Ambient air at test conditions (dry, 15 percent oxygen).} \]
The adjusted NO\textsubscript{x} emission level shall be used to determine compliance with § 60.332.

Manufacturers, owners or operators may develop custom ambient condition correction factors in terms of combustor inlet pressure, ambient air pressure, ambient air humidity and ambient air temperature to adjust the nitrogen oxides emission level measured by the performance test as provided for in § 60.8 to ISO standard day conditions. These ambient condition correction factors shall be substantiated with data and must be approved for use by the Administrator before they can be used to determine compliance with paragraph (a) of this subpart. Notices of approval of custom ambient condition correction factors will be published in the FEDERAL REGISTER.

The water-to-fuel ratio necessary to comply with § 60.332 will be determined during the initial performance test by measuring NO\textsubscript{x} emissions using Reference Method 20 and the water-to-fuel ratio necessary to comply with § 60.332 at 30, 50, 75, and 100 percent of peak load.

(2) ASTM D-2383 for the lower heating value of liquid fuels and ASTM D-1826 for the lower heating value of gaseous fuels. These methods shall also be used to comply with § 60.334(b).

(3) The analytical methods and procedures employed to determine the nitrogen content of the fuel being fired shall be approved by the Administrator and shall be accurate to within plus or minus five percent.

(b) The method for determining compliance with § 60.333, except as provided in § 60.8(b), shall be as follows:

1. Principle and Applicability.

1.1 Principle. A gas sample is continuously extracted from the exhaust stream of a stationary gas turbine; a portion of the sample stream is conveyed to instrumental analyzers for determination of nitrogen oxides (NO\textsubscript{x}) and oxygen (O\textsubscript{2}) content. During each NO\textsubscript{x} and O\textsubscript{2} determination, a separate measurement of sulfur dioxide (SO\textsubscript{2}) emissions is made, using Method 6, or its equivalent. The O\textsubscript{2} determination is used to adjust the NO\textsubscript{x} and SO\textsubscript{2} to a reference condition.

1.2 Applicability. This method is applicable for the determination of nitrogen oxide, sulfur dioxide, and oxygen emissions from stationary gas turbines. For the NO\textsubscript{x} and O\textsubscript{2} determinations, this method includes:

- Measurement system design criteria,
- Analyzer performance specifications and performance test procedures; and
- Procedures for emission testing.

2. Apparatus and Reagents

2.1 Measurement System. The equipment required to extract, transport, and analyze the gas sample constitutes the measurement system. A schematic of the measurement system is shown in Figure 20-1. The measurement system performance specifications are described in detail in Section A. The essential components of the measurement system are described below.

- **Probe**. Stainless steel type 316 or equivalent, to transport gas from stack.
- **Particulate Filter**. A filter is used to remove particulates ahead of the calibration valve assembly. In most cases, either in-stack or out-stack filter location is acceptable; however, out-stack filtration is required when the percent gas temperature is above 500°C (930°F). The filtration temperature shall be at least 120°C (250°F) to prevent moisture condensation. Glass fiber filters, of the type specified in EPA Method 5, or equivalent, are recommended.

2.1.3 Calibration Valve Assembly. A three-way valve assembly is used to direct the zero and span calibration gases to the analyzers. This assembly shall be located directly behind the probe and filter and shall be capable of blocking the sample gas flow and introducing the span and zero gases when the system is in the calibration mode.

![Figure 20.1](image-url)

**Figure 20.1** Measurement system design for stationary gas turbine tests.

2.1.4 Calibration Gases. Calibration gases are used to perform zero, span and calibration checks of the analyzers during each test run. The concentrations and specifications of these gases are described in detail in Sections 2.2 and 2.3.

2.1.5 Heated Sample Line. A FEP fluorocarbon or stainless steel (type 316 or equivalent) sample line is used to transport the gases to the sample conditioner and analyzers. The sample gas shall be maintained at least 5°C (10°F) above the stack gas dew point to prevent moisture condensation.

2.1.6 Moisture Trap. A moisture trap, designed to reduce the dew point of the sample gas to 3°C (37°F) or less, is used. This device is not required; however, the moisture content shall be determined using methods subject to the approval of the Administrator and the NO\textsubscript{x} and O\textsubscript{2} concentrations shall be corrected to a dry gas basis.

2.1.7 Pump. A nonreactive leak-free sample pump is used to pull the sample gas through the system at a flow rate sufficient to minimize transport delay. The pump shall be made of glass, or coated with nonreactive material (FEP fluorocarbon or type 316 stainless steel).

2.1.8 Sample Gas Manifold. A sample gas manifold is recommended for diverting portions of the sample gas stream to the analyzers. The manifold may be constructed of glass, FEP fluorocarbon, or stainless steel (type 316 or equivalent). Instead of using the manifold, separate sample lines may be connected to each analyzer.

2.1.9 Oxygen Analyzer. An oxygen analyzer is used to determine the oxygen concentration (percent O\textsubscript{2}) of the sample gas stream.

2.1.10 Nitrogen Oxides Analyzer. A NO\textsubscript{x} analyzer is used to determine the ppm concentration of nitrogen oxides in the sample gas stream.

2.1.11 Sulfur Dioxide Analyzer. Method 6 apparatus, or equivalent, is required for sulfur dioxide determination.

2.2 Calibration Gas Specifications. The equipment required to extract, transport, and analyze the gas sample constitutes the measurement system. A schematic of the measurement system is shown in Figure 20-1. The measurement system performance specifications are described in detail in Section A. The essential components of the measurement system are described below.

2.1.11 Sulfur Dioxide Analysis. Method 6 apparatus, or equivalent, is required for sulfur dioxide determination.

2.2.1 Zero Gas. Prepurified nitrogen is used to determine NO\textsubscript{x} and O\textsubscript{2} concentrations, and the probe is used to transport gas from stack.

2.2.2 Sample Gas Manifold. A sample gas manifold is recommended for diverting portions of the sample gas stream to the analyzers. The manifold may be constructed of glass, FEP fluorocarbon, or stainless steel (type 316 or equivalent). Instead of using the manifold, separate sample lines may be connected to each analyzer.

2.1.9 Oxygen Analyzer. An oxygen analyzer is used to determine the oxygen concentration (percent O\textsubscript{2}) of the sample gas stream.

2.1.10 Nitrogen Oxides Analyzer. A NO\textsubscript{x} analyzer is used to determine the ppm concentration of nitrogen oxides in the sample gas stream.

2.1.11 Sulfur Dioxide Analyzer. Method 6 apparatus, or equivalent, is required for sulfur dioxide determination.

2.2.1 Zero Gas. Prepurified nitrogen is used to determine NO\textsubscript{x} and O\textsubscript{2} concentrations, and the probe is used to transport gas from stack.

2.2.2 Sample Gas Manifold. A sample gas manifold is recommended for diverting portions of the sample gas stream to the analyzers. The manifold may be constructed of glass, FEP fluorocarbon, or stainless steel (type 316 or equivalent). Instead of using the manifold, separate sample lines may be connected to each analyzer.
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nitrogen are required. Nominal NO concentrations of 28, 50, and 99 percent of the instrument full scale range are needed. The 99 percent gas mixture is used to set and check the instrument span and is referred to as span gas. The 28 and 50 percent gas mixtures shall be used to validate the analyzer calibration, prior to each test.

2.2.3 Oxygen Calibration Gases. Ambient air at 20.9 percent oxygen shall be used to check the instrument span and is referred to as span gas. The zero and span gases shall be used to validate the analyzer calibration prior to each use.

2.2.4 Concentration Validation. Within one month prior to test use, calibration gases shall be analyzed, by the appropriate test method specified in Section 2.2, to determine their true concentration levels. Gas concentrations that are traceable to the National Bureau of Standards and which can be demonstrated to be stable are exempted from the calibration requirement.


3.1 Analyzer. "Span" is defined as the concentration range (specified by manufacturer) over which an analyzer will give valid readings. The spans for the analyzers used in this method shall be as follows:

<table>
<thead>
<tr>
<th>Test Gas Type</th>
<th>Conc.</th>
<th>Analyzer Output Response</th>
<th>% of Span</th>
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<tbody>
<tr>
<td>CO</td>
<td>500 ppm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SO₂</td>
<td>200 ppm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NO/NO₂</td>
<td>200 ppm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CO₂</td>
<td>10%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>O₂</td>
<td>20.9% (Air)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If the sum of the interference responses of the test gases is greater than 2 percent of the instrument span, the analyzer shall not be used in the measurement system of this method.

An interference response test of each analyzer shall be conducted prior to its initial use in the field. If changes are made in the instrumentation which could alter the interference response, e.g., changes in the type of gas detector, the instrument shall be retested.

In lieu of conducting the interference response test, instrument vendor data, which demonstrates that for the test gases of Table 3.1 the interference performance specification is not exceeded, are acceptable. If these data are not available, the tests shall be made.

3.2 Analyzer Response Time. When a change of 5 percent occurs at the inlet of the measurement system (i.e., at probe), the change is not immediately registered by the analyzer; "response time" is defined as the amount of time that it takes for the analyzer to register a concentration value within 5 percent of the new inlet concentration. The maximum response time for the analyzers used in this method is three minutes.

To determine response time, first introduce zero gas into the system until all readings are stable; then, introduce span gas into the system. The amount of time that it takes for the analyzer to register 65 percent of the final span gas concentration is the upscale response time. Next, reintroduce zero gas into the system; the length of time that it takes for the analyzer output to come within 5 percent of the final reading is the downslope response time. The upscale and downslope response times shall each be measured three times. The readings shall be averaged, and the average upscale or downslope response time, whichever is greater, shall be reported as the "response time" for the analyzer. Response time data are recorded on a form similar to Figure 20.2. A response time test shall be conducted prior to the initial field use of the measurement system, and shall be repeated if changes are made in the measurement system.

3.4 Zero Drift. "Zero drift" is the change in analyzer output during a turbine performance test, when the input to the measurement system is zero gas. The maximum allowable zero drift for the analyzers used in this method is ±2 percent of the specified instrument span. The zero drift calculation is made for each gas for each turbine test run; this is done by taking the difference between the instrument span concentration values measured at the start and finish of the test (see Section 3.1). The zero drift is recorded as a percentage of the instrument span on a form similar to Figure 20.4. A zero drift test shall be conducted prior to the initial field use of the measurement system, and shall be repeated if changes are made in the measurement system.

3.5 Span Drift. "Span drift" is the change in the analyzer output during a turbine performance test, when the input to the measurement system is span gas. The maximum allowable span drift for the analyzers used in this method is ±2 percent of the specified instrument span. The span drift calculation is to be made for each gas for each turbine test run; this is done by taking the difference between the instrument span concentration values measured at the beginning and end of the test. Span drift is recorded as a percentage of the instrument span on a form similar to Figure 20.4. A span drift test shall be conducted for any zero drift that occurred during the test period (see Figure 20.4).


4.1 Selection of a Sampling Site and the Minimum Number of Traverse Points.

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TABLE 20.1 INTERFERENCE TEST GAS CONCENTRATIONS

FIGURE 20.2 INTERFERENCE RESPONSE

Date of Test: _____________________________
Analyzer Type: __________________________ S/H

Test Gas Type | Conc. | Analyzer Output Response | % of Span |
<table>
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</table>

% of Span = Analyzer Output Response / Instrument Span × 100
PROPOSED RULES
RESPONSE TIME

Date of Test
Analyzer Type
Span Gas Concentration
Analyzer Span Setting
Upscale
Average upscale response
Downscale
Average downscale response
System response time = slower average time = seconds.

Figure 20.3
TURBINE SAMPLING SYSTEM

Zero and Span Drift Data
Turbine Type
Date:
Test No.: Analyzer: Type
Initial Calibration
Final Calibration
Difference
Zero Gas
High Calibration Gas (Span Gas)
% of Span = Absolute Value of Difference x 100
Instrument Span
*Corrected for zero drift, i.e., if zero drift over test period is 42 ppm
then 2 ppm shall be subtracted from the difference between the initial
and final readings.

Figure 20.4

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4.1.1 Select a sampling site as close as practical to the exhaust of the turbine. This shall be based on turbine geometry, stack configuration, internal baffling, and point of introduction of dilution air will vary for different turbine designs. Thus, each of these factors must be given special consideration in order to obtain a representative sample. Whenever possible, the sampling site shall be located upstream of the point of introduction of dilution air into the duct. Sample ports may be located before or after the upturn elbow, in order to accommodate the configuration of the turning vanes and baffles and to permit a complete, unobstructed traverse of the stack. The sample ports shall not be located within 5 feet or 2 diameters (whichever is less) of the gas discharge to atmosphere. For supplementary-fired, combined-cycle plants, the sampling site shall be located between the gas turbine and the boiler.

4.1.2 The minimum diameter of the sample ports shall be 3-inch nominal pipe size (NPS). Also, record the location and number of the traverse points on a diagram.

4.1.3 The minimum number of points for the preliminary O₂ sampling (Section 8.2.3) shall be as follows: (1) eight, for stacks having cross-sectional areas less than 1.5 m² (16.1 ft²); (2) one sample point for each 0.2 m² (2.2 ft²) of area, for stacks of 1.5 m² to 10.0 m² (16.1-107.6 ft²) in cross-sectional area; and (3) one sample point for each 0.4 m² (4.4 ft²) of area, for stacks greater than 10.0 m² (107.6 ft²) in cross-sectional area. Note that for circular ducts, the number of sample points must be a multiple of 4, and for rectangular ducts, the number of points must be one of those listed in Table 20.2; therefore, round off the number of points (upward), when appropriate.

Table 20.2—Cross-sectional layout for rectangular stacks

<table>
<thead>
<tr>
<th>No. of traverse points</th>
<th>42</th>
<th>36</th>
<th>30</th>
<th>25</th>
<th>20</th>
<th>16</th>
<th>12</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matrix layout</td>
<td>X3</td>
<td>X4</td>
<td>X5</td>
<td>X6</td>
<td>X6</td>
<td>X6</td>
<td>X6</td>
<td>X7</td>
</tr>
</tbody>
</table>

4.2 Cross-sectional Layout and Location of Traverse Points. After the number of traverse points for the preliminary O₂ sampling has been determined, use Method 1 to locate the traverse points.

4.3 Measurement System Operation.

4.3.1 Preliminaries.

4.3.1.1 Prior to the turbine test, the measurement system shall have been demonstrated to have met the performance specifications for interference response and response time described in Sections 8.2 and 8.3.

4.3.1.2 Turn on the sample pump and instruments; allow the normal warmup time required for stable instrument operation.

4.3.1.3 After the instruments have stabilized, the measurement system shall be calibrated using the procedures detailed in Section 8.1. Transfer the zero and span gas calibration data from Figure 20.5 to a form similar to Figure 20.6. Also, record the location and number of the traverse points on a diagram.

4.3.2 Preliminary Oxygen Sampling.

4.3.2.1 At the start of a 3-run sample sequence, position the probe at the first traverse point and begin sampling. The minimum sampling time at each point shall be 1 minute plus the average system response time. Determine the average steady-state concentration of O₂ at each point and record the data on Figure 20.7.

Figure 20.5

**CALIBRATION DATA**

<table>
<thead>
<tr>
<th>Date</th>
<th>Analyzer Type</th>
<th>High Range Gas Conc.</th>
<th>% Full Scale</th>
<th>Mid Range Gas Conc.</th>
<th>% Full Scale</th>
<th>Low Range Gas Conc.</th>
<th>% Full Scale</th>
<th>Zero Gas</th>
<th>% Full Scale</th>
</tr>
</thead>
</table>

Figure 20.6

**STATIONARY GAS TURBINE**

**TURBINE OPERATION RECORD**

<table>
<thead>
<tr>
<th>Test Operator</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
<td>Ultimate Fuel</td>
</tr>
<tr>
<td>Plant</td>
<td>Analysis C</td>
</tr>
<tr>
<td>Location</td>
<td>C</td>
</tr>
<tr>
<td>City</td>
<td>N</td>
</tr>
<tr>
<td>Ambient Temperature</td>
<td>S</td>
</tr>
<tr>
<td>Trace Metals</td>
<td>H</td>
</tr>
<tr>
<td>Fuel Flow Rate</td>
<td>Na</td>
</tr>
<tr>
<td>Water or Steam Flow Rate</td>
<td>K</td>
</tr>
<tr>
<td>Operating Load</td>
<td>etc.*</td>
</tr>
<tr>
<td>Ambient Pressure</td>
<td>etc.*</td>
</tr>
</tbody>
</table>

*Describe measurement method, i.e., continuous flow meter, start finish volume, etc.

**Additional elements added for smoke suppression.**
4.3.2.2 Select the eight sample points at which the lowest oxygen concentrations were obtained. These same points shall be used for all three runs which comprise the emission test. More points may be used, if desired.

4.3.3 Emission Sampling.

4.3.3.1 Position the probe at the first point determined in the preceding section and begin sampling. The minimum sampling time at each point shall be 3 minutes plus the average system response time. Determine the average steady-state concentration of \( O_2 \) and \( NO \) at each point and record the data on Figure 20.8.

4.3.2.3 After sampling the last point, conclude the test run by recording the final turbine operating parameters and by determining the zero and span drift, as described in Sections 3.4 and 3.5. If the zero and/or span drift exceed \( \pm 2.0 \) percent the run may be considered invalid, or may be accepted provided the calibration data which results in the highest corrected emission concentration is used.

4.3.3.2 If additional turbine runs are conducted within 4 hours of the previous run, an initial calibration of the measurement system is not required. If more than 4 hours have elapsed between runs, the pretest calibration shall be done.

4.4 An \( SO_2 \) determination shall be made (using Method 6, or equivalent) during the test. A minimum of six total points, selected from those required for the \( NO\_x \) measurement, shall be sampled; two points shall be used for each sample run. The sample time at each point shall be at least 10 minutes. The oxygen readings taken during the \( NO\_x \) test runs corresponding to the \( SO_2 \) traverse points (see Section 4.3.3.1) shall be averaged, and this average oxygen concentration shall be used to correct the integrated \( SO_2 \) concentration obtained by Method 6 to 15 percent \( O_2 \) (see Equation 20-1).
Figure 20.8

STATIONARY GAS TURBINE GAS SAMPLE POINT RECORD

<table>
<thead>
<tr>
<th>Turbine ID</th>
<th>Mfg.</th>
<th>Model &amp; S/N</th>
<th>Location</th>
<th>City</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Test Operator Name

<table>
<thead>
<tr>
<th>O₂ Instrument Type</th>
<th>S/N</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NOₓ Instrument Type</th>
<th>S/N</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sample Point</th>
<th>Time (Min)</th>
<th>O₂ (%)</th>
<th>NOₓ (ppm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Average steady state value from recorder or instrument readout.

5. Emission Calculations.

5.1 Correction to 15 Percent Oxygen.

Using Equation 20.1, calculate the NOₓ and SO₂ concentrations (adjusted to 15 percent O₂). The correction to 15 percent oxygen is sensitive to the accuracy of the oxygen measurement. At the level of analyzer drift specified in the method (±2 percent of full scale), the change in the oxygen concentration correction can exceed 10 percent when the oxygen content of the exhaust is above 16 percent O₂. Therefore, O₂ analyzer stability and careful calibration are necessary.

Actual pollutant concentration (NOₓ or SO₂)

\[
\frac{5.55}{2(5.55-O₂_{actual})} \times 1000
\]

where:

- 5.55 is 20072/370 (the defined concentration basis).
- 0₂ is the sample point oxygen concentration

5.2 Calculate the average adjusted NOₓ concentration by summing the point values and dividing by the number of sample points.


6.1 Measurement System. Prior to each turbine test, the measurement system shall be calibrated according to the procedures described below. The manufacturer's operation and calibration instructions are also to be followed as required for each specific analyzer.

6.1.1 Turn on all measurement system components and allow them to warm up until stable conditions are achieved. Next, introduce zero gas and each of the calibration gases described in Section 6.2, one at a
PROPOSED RULES

The responses of the analyzer to these gases shall be used to establish a calibration curve or to verify the manufacturer's calibration curve. The data obtained in these procedures shall be recorded on a form similar to Figure 20.4. If, for the mid-scale gases, the accuracy of the manufacturer's calibration curve or the expected response curve cannot be shown to be ±2 percent of full scale (or better), the calibration shall be considered invalid and corrective measures on the instrument shall be taken. The calibration procedure shall be repeated, using only zero gas and span gas, at the conclusion of test; this allows calculation of zero and span drift (Sections 3.2 and 3.3).

6.2 Calibration Gas Mixtures.

6.2.1 Within one month prior to the turbine test, the NOx calibration gas mixtures shall be analyzed, using the phenoldisulfonic acid procedure (Method 7) for nitrogen oxides. A minimum of three analyses shall be done, and the average concentration of each gas shall be reported as the true calibration gas value (see Figure 20.9). Alternate procedures may be employed, subject to the approval of the Administrator, to determine the calibration gas concentration.

Figure 20.9

ANALYSIS OF CALIBRATION GAS MIXTURES

<table>
<thead>
<tr>
<th>CYLINDER GAS COMPOSITION</th>
<th>Reference Method Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td></td>
</tr>
</tbody>
</table>

**Low Range Calibration Gas Mixture**

<table>
<thead>
<tr>
<th>Sample</th>
<th>ppm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Average</td>
<td>ppm</td>
</tr>
</tbody>
</table>

**Mid Range Calibration Gas Mixture**

<table>
<thead>
<tr>
<th>Sample</th>
<th>ppm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Average</td>
<td>ppm</td>
</tr>
</tbody>
</table>

**High Range (span) Calibration Gas Mixture**

<table>
<thead>
<tr>
<th>Sample</th>
<th>ppm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Average</td>
<td>ppm</td>
</tr>
</tbody>
</table>

**Note:** The NOx calibration gas mixtures shall contain nitric oxide (NO) in nitrogen. Instruments which require conversion of one nitrogen oxide component to another for total NOx measurement shall be checked to ensure that this conversion is complete and reproducible, as specified by the manufacturer.

6.2.2 Ambient air may be used as the oxygen span gas. The mid-scale calibration gas concentration shall be certified (by vendor) as being within ±2 percent of the indicated concentration.

[FR Doc.77-28721 Filed 9-30-77; 8:45 am]
CONSUMER PRODUCT SAFETY COMMISSION

ARCHITECTURAL GLAZING MATERIALS

Proposed Safety Standard and Denial of Petitions
PROPOSED RULES

CONSUMER PRODUCT SAFETY COMMISSION

ARCHITECTURAL GLAZING MATERIALS

Proposed Amendments to Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments to standard.

SUMMARY: In this document the Commission proposes amendments to the Safety Standard for Architectural Glazing Materials (16 CFR 1201) to clarify the definition of certain glazed panels in nonresidential buildings which are subject to the standard, and to modify the description of certain items of test apparatus and certain test procedures specified by the standard.

DATE: Comments concerning this proposal must be received by November 2, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

In the Federal Register of January 6, 1977 (42 FR 1427), the Consumer Product Safety Commission issued the Safety Standard for Architectural Glazing Materials (16 CFR 1201) with an effective date of July 6, 1977. This standard was issued under provisions of the Consumer Product Safety Act to reduce or eliminate risks associated with walking, running, or falling through or against glazing materials in storm-doors, shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors.

The standard prescribe safety requirements for glazing materials manufactured after July 6, 1977, for use in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors.

The standard prescribes safety requirements for glazing materials manufactured on or after July 6, 1977, for use in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors. The standard also requires that the architectural products enumerated above which are manufactured on or after July 6, 1977, must be constructed or assembled using glazing materials that meet the requirements of the standard.

In the Federal Register of June 20, 1977 (42 FR 31164), the Commission amended the standard to exempt from its requirements any architectural product which would otherwise be subject to the standard if that product is manufactured between July 6, 1977, and July 5, 1978, using glazing materials manufactured before July 6, 1977, which are marked or certified to comply with ANSI Standard Z97.1-1972 or -1975, “Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings,” published by American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

The Standard issued by the Commission is designed to reduce or eliminate unreasonable risks of injury associated with architectural glazing materials by ensuring that the glazing materials used in the products enumerated above either will not break when impacted with a certain energy, or will break so that they are less likely than other glazing materials to present the unreasonable risks of injury detailed above.

To determine the breakage characteristics of glazing materials used or intended for use in the products which are subject to the standard, an impact test is prescribed by the standard. The impact test consists of striking the glazing material to be tested with a punching bag filled with lead shot by dropping the bag from a height of 18 or 48 inches, depending on the architectural products in which the glazing material is used. Additionally, the standard prescribes accelerated environmental durability tests for laminated glass, organic-coated glass, and plastics subject to the standard to demonstrate that those glazing materials will withstand exposure to sunlight, heat, water, and other factors which, over an extended period of time, may affect their breakage characteristics.

GLAZED PANELS

One risk of injury which the standard is intended to eliminate or reduce is the type resulting from accidents which occur when a person walks or runs into a glazed panel because the accident victim misperceives the glazed panel as open space rather than solid material.

Addressing this risk of injury, the products subject to the standard include glazed panels in novelties which have the lower edge of the glazing material within 18 inches of a walking surface; an exposed surface of glazing material in excess of nine square feet; and a walking surface on both sides of the glazing material. The type of panel described above is defined as a glazed panel which is subject to the standard by § 1201.2(a) (10) (ii) (iii) of the standard.

In the definition of “glazed panel” set forth in § 1201.2(a) (10) (ii), the following language is used to describe the location of the walking surfaces next to the glazing material:

(C) There is a walking surface on both sides, either of which is within 36 inches (92 centimeters) of such panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other. [Emphasis added.]

The Commission has received several inquiries about the meaning of the language quoted above. Given a literal reading, that sentence suggests that if walking surfaces are present on both sides of a glazed panel, and if one of those walking surfaces is within 36 inches of the glazing material, the glazing material is subject to the standard no matter how far away from the glazing material the other walking surface may be located (assuming that the panel fails within all other conditions set forth in § 1201.2(a) (10) (iii)).

After careful consideration of these questions and the language of § 1201.3 (a) (10) (iii), the Commission believes that the language of that section may be overly broad. The present language may include some glazed panels which have walking surfaces on both sides, but which do not present an unreasonable risk of injury by reason of being misperceived as open space, because one of those walking surfaces is sufficiently far away from the glazing material to provide a visual signal that glazing material is present.

For this reason, in the amendments proposed below, the definition of glazed panels in § 1201.2(a) (10) (iii) has been modified to restrict its coverage to glazed panels which have walking surfaces on both sides of the glazing material, each within 36 inches of the glazing material.

TEST FRAME

As stated above, the standard prescribes an impact test in which a specimen of glazing material is struck by an impactor to determine whether it will break and, if so, if its breakage characteristics are acceptable. The glazing material to be tested is clamped inside a subframe which is held in position by an upright steel frame. This equipment is illustrated in figures 1, 2, 3, and 4 of the standard, and is described in § 1201.4(b) (1).

Section 1201.4(b) (1) (i) states: “The subframe * * * shall be reinforced at each corner.” The illustration of the subframe in figure 4 of the standard depicts a subframe with reinforcement located at each corner of the inner members of the subframe.

To improve the clarity of § 1201.4(b) (1) (ii) and its consistency with figure 4, the Commission proposes to amend that section to state that the inner subframe * * * shall be reinforced at each corner.

As described in § 1201.4(b) (1) and illustrated in figure 5, the subframe is constructed with neoprene strips at all points where the test specimen contacts the subframe. Figure 3 states that the neoprene strips shall have a Shore A, durometer hardness ranging from 30 to 45.

An inquiry from one manufacturer of glazing materials asks whether neoprene with a durometer hardness of 50 may be used in the subframe. The Commission has no information that the use of neoprene having a durometer hardness as great as 50 will improperly affect the outcome of the impact test specified in the standard. Further, the Commission is aware that neoprene having a durometer hardness as great as 50 has been utilized for several years in equipment used to ensure compliance with ANSI standard Z97.1. For this reason, the Commission proposes to
amend the standard by revising figure 3 to specify neoprene of a Shore A, durometer hardness of 30 to 50 for use in the subframe.

**IMPACTOR**

As stated above, the impact test is performed by striking the test specimen with a lead shot having a mass of 150 ± 5 pounds and dropped from a height of 48 inches (1.22 meters). The impactor is described in §1201.4 (b) (2) (i) and Table 6, 1977 FEDERAL REGISTER, VOL 42, NO. 191-MONDAY, OCTOBER 3, 1977.

The impactor is allowed to wobble or oscillate after its release. Wobble or oscillation after the impactor is released. Wobble or oscillation of the impactor could occur, but to such a limited degree that its detection by the unassisted human eye would be difficult or impossible, without affecting the results of the impact test. Accordingly, the Commission proposes to amend the fourth sentence of §1201.4 (b) (2) to state that the impactor shall be supported in a manner designed to minimize wobble or oscillation after its release.

**ENVIRONMENTAL DURABILITY TESTS**

In addition to the impact test, the standard also requires that some glazing materials be subjected to accelerated environmental tests. The materials which must be subjected to environmental testing and the tests required for each such material are summarized in §1201.4(a) (2) and Table 1 of the standard.

Table 1 states that plastics must be subjected to a simulated weathering test. This test requires exposure of specimens in a xenon arc Weather-Ometer for a period of 1200 hours, as specified by §1201.4 (d) (2) (ii) of the standard.

When the Commission issued the final standard on July 1, 1975 (42 FR 14577), it stated that an exposure of 1200 hours in a xenon arc Weather-Ometer had been estimated to represent the equivalent ultraviolet exposure of 200 hours in the twin carbon arc Weather-Ometer used by many testers, and of 375,000 langleyes of solar irradiation. The Commission further stated that it would consider amendments to the standard if the radiant flux of the xenon arc Weather-Ometer is not 12 microcalories per second per square centimeter. The correction of this error in the amendment proposed below makes no substantive change to the radiant flux required by §1201.4 (d) (2) (ii).

Section 6(e) of the Consumer Product Safety Act, 15 U.S.C. 2058(e), provides that when an amendment to a consumer product safety rule involves a material change in the procedures in section 7 and 9 apply. It is the Commission's belief that the amendments proposed below do not involve a material change to the Standard because they do not affect the basic purpose and provisions of the Standard. Therefore, the provisions of section 7 and 9 (a)–(d) do not apply. However, the Commission believes the informal rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 553, do apply.

**ENVIRONMENTAL EFFECTS**

Because the proposed amendments involve only minor modifications to the standard, the Commission believes there are no potentially significant adverse environmental effects associated with the proposed amendments.

**PROPOSAL**

Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), 15 U.S.C. 2058(e)), and the Admin-
PROPOSED RULES

The Consumer Product Safety Commission proposes to amend the Safety Standard for Architectural Glazing Materials by revising 16 CFR 1201.2 (a) (10) (iii), 1201.4 (b) (1) (iii), 1201.4 (b) (2) (1), 1201.4 (b) (2) (ii), 1201.4 (d) (2) (i), and Figure 3 as follows:

§ 1201.2 Definitions.

(a) As used in this Part 1201:

(10) "Glazed panel" means a glazing material used in any building listed in § 1201.1 (b) that is:

(iii) In all buildings other than residential buildings, all panels not described in paragraph (a) (10) (ii) of this section where:

(A) The lowest edge of the glazing material is less than 18 inches (46 centimeters) above any floor or any walking surface; and

(B) The exposed glazing material in such panel exceeds 9 square feet (0.3 square meters) of each panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other.

§ 1201.4 Test procedures.

(b) Test equipment—(1) Impact test frame and subframe.

(iii) The inner subframe (see figures 2, 3, and 4) for securing the test specimen on all four edges shall be reinforced at each corner. The material is shown as wood in figure 5, but other materials may be used provided the test specimen will contact only the neoprene strips.

(ii) Impactor. (1) The Impactor shall be a leather punching bag as shown in figure 5 of this section. The bag shall be filled with No. 7/8 chilled lead shot to a total weight of completed assembly as shown in figure 5, of 100 pounds ±4 ounces (45.36 ± 0.11 kilograms). The rubber bladder shall be left in place and filled through a hole cut into the upper part. After filling the rubber bladder, the top should be either twisted around the threaded metal rod below the metal sleeve or pulled over the metal sleeve and tied with a cord or leather thong. Note that the hanging strap must be removed. The bag should be laced in the normal manner. The exterior of the bag shall be completely covered by ½ inch 1.3 centimeters wide glass filament reinforced pressure sensitive tape. (Figure 5.)

(ii) Provisions shall be made for raising the Impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the rod going through its center was in line with the steel support cable in a manner designed to minimize wobble or oscillation after its release.

(d) Test procedures. * * * * * (2) Environmental durability test procedures. * * * * * (ii) Accelerated weathering test. The specimens shall be retained in the Weather-Ometer (paragraph (b) (3) (ii) of this section) for a period of 3480±1 hour, and exposed to a radiant flux of 50 microwatts per square centimeter (12 microcalories per second per square centimeter) while monitoring at a wavelength of 340 nanometers.

Interested parties are invited to submit comments regarding these proposed amendments to the Safety Standard for Architectural Glazing Materials.

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a supporting memorandum or brief. Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3d Floor, 1111 18th Street NW., Washington, D.C. 20207.


RICHARD E. RAPP, Secretary, Consumer Product Safety Commission.

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FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP-77-8; CP-77-14, CP-77-15]

ARCHITECTURAL GLAZING MATERIAL

Denial of Petitions

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petitions.

SUMMARY: The Commission has denied petitions from the National Association of Home Builders, the National Lumber & Building Material Dealers Association, and the Mahoney Sash & Door Co., who petitioned the Commission to exempt certain doors which contain architectural glazing materials from the scope of the Safety Standard for Architectural Glazing Materials.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the Federal Register its reasons for such denial.

On April 1, 1977, the National Association of Home Builders (NAHB) filed a petition to amend the Safety Standard for Architectural Glazing Materials to exempt openings in glazed doors through which a six-inch diameter sphere is unable to pass. On June 10, 1977, NLBMDA filed a petition requesting an amendment to exempt openings in glazed doors through which an eight-inch diameter sphere is unable to pass. This petition was endorsed by NAHB.

On July 6, 1977, Edward A. Mahoney, Jr., of the Mahoney Sash & Door Co. filed a petition requesting an amendment from the standard to exempt traditional wood stile and rail doors from the standard for architectural glazing materials, if the glazing material begins at least 42 inches off the floor.

In the three petitions, the petitioners allege that doors with small panes of glass, or with panes of glass beginning more than 42 inches off the floor, do not present the risks of injury that the standard was designed to reduce or eliminate. The petitioners also allege that the standard increases the cost for such doors out of proportion to the benefits, and that the utility and availability of substitute glazing materials are inadequate.

After careful consideration of these matters set forth in these petitions, and a review of information currently available to the Commission on these matters, the Commission has denied these petitions. The Commission has taken this action because it continues to conclude that the products affected by these petitions, if not manufactured in accordance with the Safety Standard for Architectural Glazing Materials, present the unreasonable risks of injury that the standard was designed to reduce or eliminate.

The Commission has reviewed 131 in-depth investigation reports collected during 1975 and 1976 for doors (other than storm doors) with glass panes. Of 126 for which the width of the panes could be determined, 7 of the accidents were associated with panes less than 6 inches wide, and 12 with panes 6.5 to 8 inches wide. Of those reports in which the height of the lowest edge of glazing material was provided, 20 were associated with panes less than 42 inches wide and 42 inches or more from the floor. Several additional injuries appear to be related to panes whose lowest edge is approximately 42 inches off the floor, although no measurements were provided. All the accidents appear to be of the same type and severity as occur with architectural glazing materials in general, and of course the standard was designed to reduce or eliminate.

The Commission also determined what body parts could pass through various openings in doors. For adults, a six-inch opening accepts a fist, arm, or leg above the knee. An eight-inch opening could admit a head. A forty-two inch limitation on height could permit upper trunk interaction with the glazing material.

The Commission recognizes that the costs of doors would increase as a result of the standard. However, the Commission has no reason to believe the petitioners were provided information, to indicate that there are any significant errors in the cost estimates made at the time of issuance of the standard.

The Commission understands that many doors had been covered by those state safety glazing laws which were in existence prior to the effective date of the standard. Furthermore, various trade organizations have issued voluntary industry standards to require glazing materials complying, first with existing voluntary standards, and now with the Commission's standard. Therefore, complying doors should soon replace non-complying doors in the chain of distribution because of voluntary action and the requirements of the standard.

Finally, the Commission believes on the basis of the information before it that glazing materials that comply with the Commission standard can be obtained for replacing broken glazing material in doors, and that such glazing materials are satisfactory replacements. Replacement materials include prefabricated tempered glass standard doors, glass, and plastic glazing materials.

Accordingly, in accordance with section 10(d) of the Consumer Product Safety Act (15 U.S.C. 2059(d)), the petitions are denied.


RICHARD E. RAFFS,
Secretary, Consumer Product Safety Commission.

[F Sep 26, 1977]

ARCHITECTURAL GLAZING MATERIAL

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition from Robert J. Cunitz, Ph. D., who petitioned the Commission to issue a consumer product safety rule to amend the Safety Standard for Architectural Glazing Materials, 16 CFR 1201, which would impose requirements for visual barriers on architectural glazing materials used for doors and certain windows, and to modify the design of the impact used to perform some of the testing required by the standard.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the Federal Register its reasons for such denial.

By letters dated November 23, 1976, and January 26, 1977, Dr. Cunitz petitioned the Commission to modify under § 7 of the Consumer Product Safety Act to issue a consumer product safety rule which would require the use of a visual barrier such as decals, etchings, or engravings on any glazing materials used in or as doors, and on any glazing material used for windows, if the bottom edge of the glazing material is located within two feet of any walking surface, if the height of the glazing material exceeds one foot, and if the width of the glazing material exceeds one foot. Alternatively, the petition requested amendment of the Safety Standard for Architectural Glazing Materials to include requirements for visual barriers for the products described above.

Additionally, the petition requested the Commission to amend the Safety Standard for Architectural Glazing Materials...
to modify the design of the item of test equipment which is called an impactor in the standard, and which is used to perform the impact test prescribed by the standard.

In assessing the question of whether to begin a standard development proceeding for a consumer product, the Commission considers whether the product presents an unreasonable risk of injury, whether a standard is necessary and whether the petitioner or other consumers would be unreasonably exposed to a risk of injury presented by the product if the Commission failed to commence the proceeding requested. In determining whether a product presents an unreasonable risk of injury and whether a consumer product safety standard or amendment is necessary to address a risk of injury, the Commission weighs the degree, nature, and frequency of injury or injury potential associated with the consumer product against the potential effect of a standard on the cost, utility, and availability of the product. The Commission also considers the relative priority of the risk of injury associated with the product and the Commission's resources available for rulemaking with respect to that risk of injury (see the procedures for petitioning for rulemaking under section 10 of the CPSA, 16 CFR 1110.11(b)). The Commission policy on establishing priorities for commission action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

After careful consideration of the matters set forth in this petition, and a review of all information now available to the Commission about these matters, the Commission has denied the petition. The Commission has taken this action, because it concludes that the information available to it which is relevant to the issues raised by the petition is not an adequate basis to support the action requested by the petition.

With regard to the first issue raised by the petition—risks of injury which may result from human impacts with glazing materials in doors and certain windows and in which the impacts do not cause those materials to break—the Commission has examined reports of in-depth investigations of injuries associated with glazing materials in doors and glazed panels. Of 250 such reports since January 1974, two reports described injuries associated with glazing materials which did not result from the breakage of those materials. In one of these cases, a visual barrier of the type urged in the petition might have prevented the accident. In the other case, such a barrier probably would not have prevented the accident. However, the lack of injury data does not conclusively show that architectural glazing materials that do not break have no injury potential. Because the Commission's standard for glazing materials requires certain glazing to be impacted with 400 foot pounds of energy and either to break with characteristics such that the glazing is less likely to present an unreasonable risk of injury or not to break, it is possible that injury potential due to contact with glazing that does not break may be increased. There is no information, however, that shows that decals, etchings, or engravings on the glazing will prevent accidents from occurring in those circumstances where the injury hazard is due to accidentally falling into or through glazing, or due to installing, replacing, storing, or otherwise manipulating the glazing (16 CFR 1201(d)(1)(ii), (iii)). These risks of injury would not appear to be reduced by visual barriers.

The Commission concludes that the portion of the petition requiring that visual barriers be mandated should be denied because of the lack of available information sufficient to establish that the absence of visual barriers for doors and certain windows presents an unreasonable risk of injury; that a mandatory standard requiring such visual barrier is necessary; or that the failure of the Commission to initiate a standard development proceeding to mandate visual barriers would unreasonably expose consumers to a risk of injury presented by doors and certain windows containing architectural glazing materials which do not break when impacted.

With regard to the second issue raised by the petition—the alleged inadequacy of the design of the impactor specified in the standard—the Commission has no information which would confirm or refute the allegations of the petition. Limited studies performed for the Commission (to compare the effects of impacting glazing materials by the use of an anthropomorphic dummy with the effects of impacting glazing materials by the use of the impactor specified in the standard) are inconclusive. However, the impactor designated in the standard has a long history of use in the voluntary industry standard, ANSI Z97.1. In the absence of some information tending to support the allegations concerning the inadequacy of the impactor, the Commission is unable to conclude that use of the impactor specified in the standard, along with the criteria for "passing" the standard results in glazing materials that present an unreasonable risk of injury. On the contrary, in issuing the standard, the Commission concluded that the standard was reasonably necessary to eliminate or reduce an unreasonable risk of injury. In view of the foregoing, the Commission is unable to find that an amendment to the standard concerning the type impactor is necessary.

In addition, the Commission believes that based on presently available information, the failure of the Commission to initiate a standard development proceeding for the purpose of modifying design of the impactor would not unreasonably expose the petitioner or other consumers to a risk of injury presented by products covered by the standard which contain architectural glazing materials.

This notice of the Commission's denial of the above-described petition and its reasons for denial has been issued pursuant to section 10(d) of the Consumer Product Safety Act, 15 U.S.C. 2059(d).


RICHARD E. RAPIS,
Secretary, Consumer Product Safety Commission.

[FR Doc. 797-39822 Filed 9-30-77; 8:46 am]
ENVIRONMENTAL PROTECTION AGENCY

TOXIC SUBSTANCES CONTROL

Supplemental Notice to Proposed Inventory Reporting Requirements; Draft Reporting Forms
PROPOSED RULES

List of Chemical Substances and specified minerals which EPA proposed to include in the inventory of chemical substances. On April 18, 1977, EPA held a public meeting in Washington, D.C. to provide interested persons an opportunity to comment publicly on the proposed regulations. On April 28, 1977, EPA published a notice of availability of the Candidate List of Chemical Substances for use in reporting chemicals for inclusion on the inventory (42 FR 21639). In addition, on July 8, 1977, the Agency published a notice to amend the procedures for securing a copy of the Candidate List on computer-readable tape (42 FR 35183).

On August 2, 1977, EPA repropose the inventory reporting regulations to revise the March 9, 1977, proposed regulations. In order to provide interested persons an opportunity to comment publicly on the proposed regulations, EPA held a public meeting in Washington, D.C., on August 24, 1977. A transcript of the public meeting is available for public inspection in the Office of Toxic Substances at the address provided above.

Dates: Comments on the draft reporting forms must be received on or before October 13, 1977. Comments on other issues raised in this notice must be received on or before November 2, 1977.

Address: Comments should be addressed to the Federal Register Section, WH-557, Office of Toxic Substances, Attention: Mr. John B. Ritch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation OTS-081002A.

Summary: This document supplements the inventory reporting regulations proposed on August 2, 1977, in the Federal Register (42 FR 31882). Specifically, this notice provides some information on draft reporting forms for comment.

For further information contact:


Supplementary information:

This document supplements the regulations proposed on August 2, 1977, in the Federal Register (42 FR 31882) under the authority of subsection 8(a) of the Toxic Substances Control Act (80 Stat. 1975; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA. On August 2, 1977, EPA first published in the Federal Register (42 FR 31319) proposed inventory reporting regulations to govern reporting of chemical substances for inclusion on an inventory of chemical substances required by subsection 8(b) of TSCA. On April 12, 1977, EPA published a supplemental notice of proposed rulemaking in the Federal Register (42 FR 12928) providing additional information pertaining to the proposed inventory regulations. This notice set forth instructions for use of a Candidate List of Chemical Substances and specified minerals which EPA proposed to include in the inventory of chemical substances. On April 18, 1977, EPA held a public meeting in Washington, D.C. to provide interested persons an opportunity to comment publicly on the proposed regulations. On April 28, 1977, EPA published a notice of availability of the Candidate List of Chemical Substances for use in reporting chemicals for inclusion on the inventory (42 FR 21639). In addition, on July 8, 1977, the Agency published a notice to amend the procedures for securing a copy of the Candidate List on computer-readable tape (42 FR 35183).

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Dates: Comments on the draft reporting forms must be received on or before October 13, 1977. Comments on other issues raised in this notice must be received on or before November 2, 1977.

Address: Comments should be addressed to the Federal Register Section, WH-557, Office of Toxic Substances, Attention: Mr. John B. Ritch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation OTS-081002A. All written comments filed pursuant to this notice will be available for public inspection at that office from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Summary: This document supplements the inventory reporting regulations proposed on August 2, 1977, in the Federal Register (42 FR 31882) under the authority of subsection 8(a) of the Toxic Substances Control Act (80 Stat. 1975; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA. On April 12, 1977, EPA published a supplemental notice of proposed rulemaking in the Federal Register (42 FR 12928) providing additional information pertaining to the proposed inventory regulations. This notice set forth instructions for use of a Candidate
fact that the most desirable time to determine effects of a substance and to take action if necessary, is before full commercial production begins. Congress did not intend that the purposes of this section could be circumvented by importation rather than domestic manufacture of a chemical substance. If EPA did not require importers to report any new chemical contained in imported mixtures, persons could manufacture new chemical substances abroad, mix them with water or other solvents, and import them into the United States as a mixture. This practice would not only significantly undermine the intent of Congress that any new chemical substance be subject to review before its introduction and use in commerce, but might also encourage domestic manufacturers to move at least part of their operations abroad. EPA does not believe that Congress intended such a result.

Moreover, domestic manufacturers and importers to be treated with parity (H.R. Rep. No. 94-314, 94th Cong., 2d Sess. 12-13). Pre-manufacture notification must be given on every new substance manufactured domestically. If the importer of a mixture were not required to give premanufacture notification on any new chemical substance in a mixture, the domestic manufacturer would be put at a distinct disadvantage. An importer could enter domestic markets with a substantial savings of both time and money. The costs in terms of protection of the public health and environment would thereby be significant. Accordingly, importers of mixtures will be required to give premanufacture notification of new chemical substances.

It is the proposed Agency policy that the premanufacture notification requirements of section 5(a)(1)(A) should not be applied to the importation of chemical substances in articles. The August 2, 1977 proposed regulations would have required importers to report chemical substances contained in the articles they import. The August 2, 1977 proposed regulations, however, will not require importers of an article to report component chemical substances for the inventory. As was discussed in the preamble to those proposed regulations (42 FR 39185), comments from industry and trade associations argued that it would be extremely burdensome for importers to identify the chemical substances contained in the articles they import. According to estimates from the American Importers Association, the total direct costs would range from $187 million to about $457 million. The value of the chemical substances contained in the articles may be small in proportion to the value of the article itself. Accordingly, to require an importer of the article to identify its constituent chemical substances would impose a proportionately greater burden. Moreover, EPA does not believe that domestic manufacturers of articles would move their operations abroad or be put at a serious disadvantage if the importer is not required to identify constituent substances in articles. Finally, because of its form, the health and environmental risk posed by a chemical substance imported in an article may be less than the risk posed by a chemical substance imported in bulk or in a mixture.

Accordingly, the inventory reporting requirements of section 6(a) and the premanufacture notification requirements of section 5(a)(1)(A) will not be applied to importers of chemical substances in articles. However, the Agency will exercise its authority to regulate the import of chemical substances in bulk, in mixtures, and in articles under section 6 of the Act, as necessary to protect against unreasonable risks of injury to health and the environment. This might, for example, include prohibiting, limiting or in other ways restricting the import of such chemical substances.

The Agency encourages importers of chemical substances in mixtures to ensure that the chemical substances they import are included on the inventory. The premanufacture notification requirement for the inventory in accordance with § 710.5(e) of the proposed regulations, he could authorize the foreign supplier of the chemical substance to report to EPA on his behalf, if both the supplier and the importer sign the declarations provided on the reporting form. EPA, however, encourages importers of chemical substances in mixtures to wait to report until after the inventory is published next fall. Many of the imported chemical substances may be contained in the inventory, and importers could thus avoid duplicative reporting.

EPA solicits comments concerning this revision to the earlier proposals. EPA specifically welcomes comment on the distinctions we propose between importers of chemical substances in mixtures and importers of chemical substances in articles, and, in particular, on the relative burdens which would be imposed to these two sectors. The Agency has already received some comments on the proposed regulations and these issues and will consider these in preparing a final inventory reporting regulations.

REPORTING ON MAGNETIC TAPE

EPA is currently working with the Chemical Abstracts Service (CAS) to develop a computer file structure which can be used to allow persons to report chemical substances with CAS registry numbers on magnetic tape. These substances otherwise would be reported on either Form A or B, as discussed below. Instructions concerning how to report by magnetic tape will be included with the final regulations. EPA will probably require that there be a minimum number of substances reported on a tape so that reporting by tape would not be as efficient as by the forms. In addition, anyone submitting a tape would have to submit at least one form with a signed certification statement and, for tapes containing confidential information, submit appropriate confidentiality statements.

A WORD OF CAUTION

Several manufacturers have complained to EPA that they have spent substantial amounts of time and money compiling inventories in response to the March 9, 1977 and August 2, 1977 proposed regulations. The March 9, 1977 and August 2, 1977 proposed regulations are proposals published for public comment. The regulations will be revised in response to the public comments before final promulgation. Accordingly, manufacturers and others are encouraged to keep this in mind as they prepare for compiling information for submittal to EPA.

REPORTING FORMS: FORM A, B, & C

EPA is proposing four forms for reporting of chemical substances. Form A is for reporting chemical substances which are included on the Toxic Substances Control Act (TSCA) Candidate List of Chemical Substances, a list of approximately 33,000 substances. This Candidate List was published by EPA last April and is available through the Office of Industry Assistance in EPA's Office of Toxic Substances. It was compiled as a tool for referring to chemical substances that are included on it. Form A provides space for the Chemical Abstracts Service (CAS) registry number and code designation which are included on each of the chemical substances in the Candidate List. The code designation is a check number to verify that the corresponding CAS registry number was entered correctly. Code designations will not be included in the inventory. For any listed chemical, a manufacturer merely has to report these numbers on Form A rather than the chemical name or description of the chemical substance.

Everything on the Candidate List will not automatically be included on the inventory. Only those substances that are included will be. Further, not everything on the Candidate List will be included in the inventory. The Candidate List contains some mixtures such as hydrates and some chemical substances, such as those used solely as drugs and pesticides, which are excluded from the proposed regulations. In addition, the Candidate List contains naturally occurring substances which need not be reported as they will automatically be included in the inventory.

Many product trademarks are included in the Candidate List but should not be reported for the inventory. Product trademarks will not be included on the inventory because they refer to mixtures or, in the case of trademarked chemical substances, the trademark may not always be linked with that specific substance over time. The product trademark may, however, be reported on Form D, as is discussed below. Product trademarks are included on the Candidate List which may be reported. The purpose of the proposed Form D for trademarked products is discussed more fully below.
Form D is for reporting chemical substances which have Chemical Abstracts Service Registry Numbers but are not included in the Candidate List. Form C is for reporting either chemical substances which do not have a Chemical Abstracts Service Registry Number or whose identities are confidential.

On each of the forms there will be an opportunity for manufacturers to assert all potential confidentiality claims. If a manufacturer makes a confidentiality claim, he must sign a statement that certifies that certain statements concerning confidentiality printed on the back of the forms are true. EPA welcomes any comments concerning the provisions concerning confidentiality printed on the back of the forms. These comments must be received on or before [ten days after publication of this notice] so that EPA may make appropriate modifications prior to publication of these forms.

Form D: Product Trademarks List

EPA has received comments from processors and users of chemical substances that they do not always know the chemical identities of the substances they purchase. Rather, they often know only the product trademarks. Accordingly, during the special 120-day reporting period, processors and users may have difficulty identifying whether or not the chemical substance(s) they purchase are in fact on the inventory. Processors could individually request suppliers to certify the substances that they sell are being reported. In order to ease this burden somewhat, we are proposing to provide an opportunity for manufacturers who sell products under product trademarks to certify that the chemical substances have been reported for the inventory and to report those trademarks to EPA on a separate form. A manufacturer would not be required to report his trademarks.

EPA would not require manufacturers who chose to report their trademarks to link the product trademarks with specific chemical substances. We realize that many trademarks refer to mixtures of varying compositions. Thus, linking a trademark to one specific chemical substance would in some instances be inaccurate or misleading. To require product trademarks to be defined in terms of their component chemical substances may be desirable for future requirements, but we feel it would be too burdensome for the limited purpose of compilation of the inventory.

EPA would publish a separate document along with the initial inventory that would simply list alphabetically those product trademarks which had been reported by manufacturers. As mentioned earlier, a manufacturer would first have to certify that all the chemical substances subject to these regulations contained in the trademarked products have been reported to EPA as required by the inventory regulations. Reporting of any false information would be subject to criminal penalty under 18 USC 1001.

EPA welcomes comments on the usefulness of this approach. In particular, as proposed here, a person may report a trademarked product that is a chemical substance, a mixture, or an article containing a chemical substance. EPA is proposing to permit reporting on Form D of trademarked mixtures and articles to provide a simple mechanism for manufacturers of these mixtures and articles to assure their customers that the chemical substances contained in the mixture and articles have been reported for the inventory. EPA welcomes comment on whether such reporting should be permitted.


DOUGLAS M. COSTLE,
Administrator.
PROPOSED RULES

U.S. Environmental Protection Agency
Chemical Substance Inventory Report
Section 8(a) and (b) — Toxic Substances Control Act
(15 U.S.C. 2607)

Instructions
FORM A: TSCA Candidate List Chemical Substances

A form may only be used to report, for the Toxic Substances Control Act (TSCA) Section 8(a) and Section 8(b) Inventory, chemical substances that are identified in the EPA publication “Toxic Substances Control Act (TSCA), PL 94-469, Candidate List of Chemical Substances,” April 1977, FG Stock Number 020-007-00001-2, or in any addendum to that list published by EPA in the FEDERAL REGISTER. Chemical substances with known Chemical Abstracts Service (CAS) Registry Numbers but which do not appear in the TSCA Candidate List of Chemical Substances should be reported using Form C.

A chemical substance which has no known CAS Registry Number and/or whose identity as a commercial chemical substance is claimed confidential, must be reported on Form C.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). A Guide to the use of the Candidate List of Chemical Substances appears in Appendix A of the Inventory reporting regulations. After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addresses identified in block III of the form.

TYPE OR USE A BLACK BALL POINT PEN! (PRESS FIRMLY).

Exam I. CERTIFICATION STATEMENT AND SIGNATURE

The certification statement must be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association must sign the form. If an importer elects to have his foreign supplier/manufacturer sign the form, and a duly authorized official of the foreign supplier/manufacturer (identified in block V) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME AND TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S)

Enter the name, address, and telephone number (including area code) of the person(s) when EPA may contact for clarification of information submitted on this form. An importer who elects to have his foreign supplier/manufacturer complete block V should enter the name and address of his foreign supplier/manufacturer.

BLOCK V. CANDIDATE LIST CHEMICAL SUBSTANCES

CAUTION: The TSCA Candidate List of Chemical Substances inappropriately includes some mixtures and certain chemical substances which, as explained in the inventory reporting regulations, are excluded from the inventory. To the extent report mixtures or excluded chemical substances, Furthermore, the Candidate List includes some trademarks. Do not use Candidate List entries which are trademarks to identify and report chemical substances. Trademarks will not be included on the inventory.

Up to 27 Candidate List chemical substances may be reported on this form. Manufacturers and processors should report on this form only TSCA Candidate List chemical substances which are manufactured or processed at the plant site identified in block III.

For each chemical substance entered in block V:
1. Enter in the column labeled "CAS Registry Number" the Chemical Abstracts Service (CAS) Registry Number as it appears in the Candidate List. Include hyphens.
2. Enter in the column labeled "EPA Code Designation" the code number (including hyphens) which accompanies the CAS Registry Number in the Candidate List.

FEDERAL REGISTER, VOL 42, NO. 191—MONDAY, OCTOBER 3, 1977
As specified below, make the appropriate entry in the box under "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).

a) Manufacturers' and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that: (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977; or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.

b) Processors: If you only processed the chemical substance since January 1, 1975, make no entry.

c) Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

4. Enter a check in the appropriate box(es) under the general heading "Activity" to indicate whether you manufacture, process, and/or import the chemical substance. Check as many boxes as applicable.

5. Enter a check in the box under "Site Limited" if you manufacture the chemical substance within the plant site identified in block III and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

6 Confidentiality Claims:

Enter checks in the appropriate boxes to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

(a) By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(b) By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(c) By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.

(d) By checking the box under "Site Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

(e) By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

(f) By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

(g) By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block II is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.
PROPOSED RULES

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 6(a) and (b) Toxic Substance Control Act 15 USC 2607)

FORM A

I. CERTIFICATION STATEMENT: I hereby certify that (1) each chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1977, and can be reported for the inventory (40 CFR 711.1) and (2) all information provided on this form is complete and accurate and (3) the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by duly authorized representatives of the EPA Administrator to document any information here reported.

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II. PLANT SITE: NAME & ADDRESS

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III. IL CORPORATION

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IV. PRINCIPAL TECHNICAL CONTACT(S)

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V. TSCA CANDIDATE LIST CHEMICAL SUBSTANCES (LIST ADDITIONAL SUBSTANCES ON SEPARATE FORMS)

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EPA NO. ______

FEDERAL REGISTER, VOL 42, NO. 191—MONDAY, OCTOBER 3, 1977
By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims."

a. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

b. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

c. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.

d. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

e. By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

f. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

g. By checking the box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement
For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.
PROPOSED RULES

U.S. ENVIRONMENTAL PROTECTION AGENCY

CHEMICAL SUBSTANCE INVENTORY REPORT

Section 8(a) and (b) — Toxic Substances Control Act

(15 U.S.C. 2607)

Instructions:
FORM B: Chemical Substances with CAS Registry Numbers

Form B may only be used to report, for the Toxic Substances Control Act (TSCA), Section 8(a) and 8(b) Inventory, chemical substances with known Chemical Abstracts Service (CAS) Registry Numbers. Chemical substances which appear in the TSCA Candidate List of Chemical Substances should be reported using Form A. A chemical substance which has no known CAS Registry Number and/or whose identity as a commercial chemical substance is claimed confidential, must be reported on Form C.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 720 (40 CFR 720). After completeness and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III.

TYPE OR USE A BLACK BALL POINT PEN (PRESS FIRMLY).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE

The certification statement must be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association must sign this form. If an importer elects to have his foreign supplier/factory complete block V of this form, the importer must, nevertheless, sign the form and a duly authorized official of the foreign supplier/factory (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME AND TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. The plant site is owned by an unincorporated entity, enter the company name. The trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S)

Enter the name, address, and telephone number (including area code) of the person(s) who EPA may contact for classification of information submitted on this form. An importer electing to have his foreign supplier/factory complete block V should enter the name and address of the foreign supplier/factory manufacturer.

BLOCK V. CHEMICAL SUBSTANCES WITH CAS REGISTRY NUMBERS

Up to 10 chemical substances may be reported on this form. Manufacturers and processors should report on this form only chemical substances with CAS Registry Numbers which are manufactured or processed at the plant site identified in block III.

For each chemical substance entered in block V:

1. Enter in the column "CAS Registry Number" the Chemical Abstracts Service (CAS) Registry Number. Include hyphens.

2. Enter in the column labeled "Specific Chemical Name" the systematically derived or other specific chemical name. Enter only nonproprietary chemical names. All names reported in this column will be published in the inventory with the CAS Registry Number.

3. As specified below, make the appropriate entry in the box under "Regulatory Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 175,411 or 2,550 as 2,400).

a) Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity covered for manufacture and/or for importation during calendar year 1975, or (ii) if there was no manufacture during 1976 or 1975, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance before January 1, 1975, enter the average annual quantity distributed in commerce since that date.

b) Processors: If you only processed the chemical substance since January 1, 1975, make no entry.

c) Trade Associations: Enter the aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
PROPOSED RULES

1. Enter a check in the appropriate box(es) under the general heading "Activity" to indicate whether you manufacture, process, and/or import the chemical substance. Check as many boxes as applicable.

2. Enter a check in the box under "Site Limited" if your manufacture and process the chemical substance only within the plant site identified in block III and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

CONFIDENTIALITY CLAIMS

Enter checks in the appropriate blocks to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

(a) By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(b) By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

(c) By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.

(d) By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

(e) By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

(f) By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block III is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

(g) By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed, for commercial purposes at this particular plant site.
PROPOSED RULES

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 8(a) and (b) Toxic Substances Control Act 15 USC 2507)

FORM B

I. CERTIFICATION STATEMENT: I hereby certify that [ ] each chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1975, and can be reported for the inventory (40 CFR 724); [ ] all information provided on this form is complete and accurate; and [ ] the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information here reported.

SIGNATURE DATE(MON, DAY, YEAR) NAME & TITLE TYPE OF PLANT

II. CORPORATION

[ ] PLANT SITE NAME & ADDRESS

[ ] CORPORATION

[ ] NAME & ADDRESS

III. PRINCIPAL TECHNICAL CONTACTER

IV. VOLUME

V. SPECIFIC CHEMICAL NAME

VI. CAS REGISTRY NUMBER

OMB No.: 53813

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
PROPOSED RULES

CONFIDENTIALITY STATEMENTS
[For Chemical Substance Inventory Report Forms A and B]

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims."

a. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

b. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

c. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.

d. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

f. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

g. By checking the box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.
PROPOSED RULES

U.S. Environmental Protection Agency
Chemical Substance Inventory Report
Section 8(a) and (b) - Toxic Substances Control Act
(15 U.S.C. 2607)

-Instructions-

Form C: Chemical Substance whose Identity is Claimed Confidential or whose CAS Registry Number is Unknown

Form C may only be used to report, for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) inventory, a chemical substance whose identity as a commercial chemical substance is claimed confidential or whose Chemical Abstract Service (CAS) Registry Number is unknown. Chemical substances which appear in the TSCA Candidate List of Chemical Substances should be reported using Form A. Chemical substances with known CAS Registry Numbers but which do not appear in the TSCA Candidate List of Chemical Substances should be reported using Form D.

Before completing this form, carefully read the inventory reporting regulations published in the Federal Register and which also appear in the Code of Federal Regulations, Chapter 49, Part 710 (40 CFR Part 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box 5
Columbus, OH 43210

EPA will acknowledge receipt of the forms to the address you identified in block III.

Type or use black ball point pen (press firmly).

BLOCK I: Certification Statement and Signature

The certification statement shall be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association shall sign the form. If an importer elects to have his foreign supplier/manufacturer complete block V of this form, the importer must, nevertheless, sign the form, and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME AND TITLE: Enter the name and title of the person who signed the form.

BLOCK II: Corporation

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part of, if that corporation is controlled by another domestic corporation, enter the complete name of that controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III: Company Name and Plant Site Address

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV: Principal Technical Contact(s)

Enter the name, address, and telephone number (including area code) of the person(s) when EPA may contact for clarification of information submitted on this form. An importer electing to have his foreign supplier/manufacturer complete block V should enter the name and address of the foreign supplier/manufacturer.

BLOCK V: Chemical Substance whose Identity is Confidential or whose CAS Registry Number is Unknown

A. SPECIFIC CHEMICAL NAME: Indicate whether the chemical substance proposed for inclusion in the inventory falls within class 1 or 2, described as follows:

Class 1 chemical substances are those which can be represented by definite structural diagrams. For a class 1 chemical substance, propose a name which is as descriptive of the substance as possible. Also provide synonyms known to you, other than trademarks, by which the chemical substance is commonly known.

Class 2 chemical substances are those which can not be named by a class 1 description. For a class 2 chemical substance, propose a name which is as descriptive of the substance as possible. Also provide synonyms known.

B. ACTIVITY: Check the appropriate box(es) to indicate whether you import, manufacture, or process the chemical substance at the plant site identified in block III. Check as many boxes as applicable.
PROPOSED RULES

C. PRODUCTION VOLUME: As specified below, make the appropriate entry in the blank provided for "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).

1. Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976 except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.

2. Processors: If you only processed the chemical substance since January 1, 1975, make no entry.

3. Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

D. CONFIDENTIALITY CLAIMS:

Enter checks in the appropriate boxes to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

1. By checking the box under "Chemical Identity" for the substance reported, you assert that the chemical identity of the particular substance on the TSCA inventory is confidential. Enter the CAS Registry Number (including hyphens), if known. Check one or more of the justification statement boxes which refer to statements appearing on the back of this form under Item 1. These statements explain the reasons for asserting the identity to be confidential. EPA must know the reason for asserting the identity to be confidential.

   In addition, provide a generic name for inclusion on the inventory which is only as generic as necessary to protect the confidential identity of the particular chemical substance.

2. By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.

3. By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

4. By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.

5. By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.

6. By checking the box under "Production Volume" for a particular chemical substance for the plant site identified in block III is confidential.

7. By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

8. By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this particular chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at that particular plant site.

E. STRUCTURAL AND SUPPLEMENTAL INFORMATION

For Class 1 chemical substances, provide a structure diagram indicating the atoms and the nature of the bonds joining the atoms. Stereochemistry, if known, and ionic charges should be shown. In addition, provide a molecular formula which is an inventory of the kinds and numbers of atoms present in the molecule without regard to how the atoms are bonded.

For Class 2 chemical substances, describe, in the form of a reaction scheme, the final reaction sequence used to produce the reported chemical substance. Such description should identify all immediate precursor substance(s) and the nature of the reaction. All reactants should be identified by their CAS Registry Numbers, if known. In addition, provide, to the extent possible, a partial structural diagram.

Supplemental instructions for the proper identification of chemical substances is provided in Appendix A of the inventory reporting regulations (40 CFR 710).
U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 8 (a) and (b) Toxic Substance Control Act 15 USC 2607)

FORM C

I. CERTIFICATION STATEMENT: I hereby certify that [I][the chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1977, and can be reported for the inventory (40 CFR 772).]
[II] all information provided on this form is complete and accurate; and the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim, I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information I have reported.

II. PLANT SITE NAME & ADDRESS

Name:________________________________________
Address:_____________________________________
City: ________________________ State: ______ Zip: ______

III. CORPORATE NAME

DATE (MO, DAY, YEAR) NAME & TITLE (PROJECT)

IV. PRINCIPAL TECHNICAL CONTACT(S)

V. CHEMICAL SUBSTANCE WHOSE IDENTITY IS CONFIDENTIAL AND/OR CAS REGISTRY NUMBER IS UNKNOWN

A. SPECIFIC CHEMICAL NAME: [ ] CLASS 1 [ ] CLASS 2

B. ACTIVITY: [ ] MANUFACTURE [ ] PROCESS [ ] IMPORT [ ] SITE LIMITED

C. PRODUCTION VOLUME: ____________________________

D. CONFIDENTIALITY CLAIMS:

(1) CHEMICAL IDENTIFY [ ]

JUSTIFICATION STATEMENTS (OVER)
A[ ] B[ ] C[ ]
CAS REGISTRY NUMBER (IF KNOWN) ________________
PROPOSED GENERIC NAME _________________________

E. In the space provided below provide structural & supplemental information to aid in the specific identification of the chemical substance:

Molecular Formula (if known) ____________________

[ ] SEE ATTACHED SHEETS (WRITE FORM NO. ON ALL ATTACHMENTS)
By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims" or the box entitled "Chemical Identity."

1. By checking the box entitled "Chemical Identity," I assert that the chemical identity of this chemical substance is confidential for one or more of the following reasons (as indicated by a check by the appropriate statement or statements):

A. This chemical substance is known to exist; however, no one knows that this chemical substance is being manufactured, imported, or processed for commercial purposes. If our competitors knew that this chemical substance is being manufactured, imported, or processed for commercial purposes, it would show then that the chemical substance has commercial potential and might lead them into research concerning its use. No one knows that this chemical substance has commercial possibilities except us to the best of our knowledge.

B. This chemical substance is known to exist; however, no one knows that this chemical substance is being manufactured, imported, or processed for commercial purposes. If our competitors knew that this substance is being manufactured, imported, or processed for commercial purposes, they would immediately conclude that we had reported it. The fact that we manufacture, import, or process this chemical substance for commercial purposes is confidential.

C. This chemical substance is not known to exist. If our competitors knew that this chemical substance does exist and that it is manufactured, imported, or processed for commercial purposes, it would show them that the chemical substance has commercial potential and might lead them into research concerning its use. No one knows that this chemical substance has commercial possibilities except us to the best of our knowledge.

2. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III is confidential.

3. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.

4. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.

5. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that we distribute the chemical substance for commercial purposes outside of the manufacturing site identified in block III is confidential.

6. By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.

7. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block III is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.

8. By checking box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For all of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" or the box entitled "Chemical Identity" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.
PROPOSED RULES

U.S. Environmental Protection Agency
Voluntary Product Trademark Report
(In conjunction with the Toxic Substances Control Act
Chemical Substance Inventory Reporting)

Instructions
Form D: Product Trademarks

Form D may be used by manufacturers and importers of trademarked products to report their product trademarks. If such products contain chemical substances which are permitted to be reported for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Chemical Substance Inventory by the inventory reporting regulations (40 C.F.R. 710), the manufacturer or importer must certify that those chemical substances have been reported. Form D may not be used to report chemical substances. Chemical substances must be reported using Chemical Substance Inventory Report Forms A, B, or C, whichever is applicable.

Forms reports voluntarily submitted using Form D, EPA will compile and publish a Product Trademark List in conjunction with the TSCA Chemical Substance Inventory. This list will serve primarily two purposes. First, it will allow manufacturers and importers of trademarked products to ensure customers that all reportable chemical substances contained in their products appear in the TSCA Chemical Substance Inventory. Second, processors and users, who may add chemical substances to the inventory during a special 120-day reporting period following its publication, will be able to consult both the inventory and the Product Trademark List to determine if the chemical substances they process or use have been reported.

Before completing this form, carefully read the inventory reporting regulations as published final in the Federal Register and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 C.F.R. 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the form to the address identified in block II of the form.

TYPE OR USE A BLACK BALL POINT PEN (Press firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURES:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. By signing the statement, you certify for each trademark listed in block IV that all chemical substances permitted to be reported under the Toxic Substances Control Act (Section 8(b) inventory reporting regulation (40 C.F.R. 710) which comprise that trademarked product have been reported by someone for inclusion on the Chemical Substance Inventory.

BLOCK II. CORPORATE NAME AND ADDRESS:

Enter the complete name and address of the domestic corporation which manufactures or imports the trademarked products. For unincorporated entities, enter the company name and address.

BLOCK III. PRINCIPAL TECHNICAL CONTACT(S):

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form.

BLOCK IV. PRODUCT TRADEMARKS:

List the trademarks for products which you manufacture or import. Trademarks which cover a line of products may be listed in aggregated form if the certification statement is true for all products within that line.
U.S. ENVIRONMENTAL PROTECTION AGENCY
VOLUNTARY PRODUCT TRADEMARK REPORT
(In conjunction with the Toxic Substances Control Act Chemical Substance Inventory reporting)

I. CERTIFICATION STATEMENT: I hereby certify that each trademark listed below identifies a product which I manufacture or import and that all component chemical substances that are permitted to be reported for the inventory (40 CFR 710) have been reported. I agree to permit access to, and the copying of, records, by a duly authorized representative of the EPA Administrator to document any information here reported.

II. CORPORATION: NAME & ADDRESS

NAME

ADDRESS

III. PRINCIPAL TECHNICAL CONTACT(S)

IV. PRODUCT TRADEMARKS

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[FR Doc.77-28738 Filed 9-30-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

VOCATIONAL EDUCATION, STATE PROGRAMS AND COMMISSIONER'S DISCRETIONARY PROGRAMS
Title 45—Public Welfare

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

STATE ADMINISTERED PROGRAMS AND COMMISSIONER’S DISCRETIONARY PROGRAMS

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: These regulations implement the Vocational Education Act of 1963 as completely revised by the Education Amendments of 1976. The regulations cover both the State administered programs and the Commissioner’s discretionary programs. Generally, the regulations are designed to assist States to improve planning in the use of all resources for vocational education, and to overcome sex discrimination in vocational education. Also, the regulations permit consolidation of programs to provide greater flexibility to the States in conducting vocational education programs.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with their 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.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

RULEMAKING HISTORY

The Office of Education has been visibly concerned about the need for intensive public participation in the development of these regulations because of the substantial impact Pub. L. 94-482 will have on the administration and operation of vocational education programs. This massive amount of public input was analyzed during the development of the final regulations. A summary of the comments received and the responses to these comments are set forth in this preamble.

Although the final regulations have been significantly affected by intense public involvement, the Office of Education sees the development of regulations implementing the Sections of the Act as being an evolutionary process which will continue over a period of several years. The act impact and consequences of the statutory provisions and problems within the Act are such that educational agencies may have in implementing these provisions are not known at the present time. Therefore, the public is encouraged to continue to submit their views on these regulations, and the Office of Education will amend and revise the regulations in the future as need and experience dictate.

OVERVIEW OF THE REGULATIONS

PART 104—STATE ADMINISTERED PROGRAMS

STATE ADMINISTRATION

Any State which desires to receive funds under the Act must designate a State board to be the sole State agency responsible for the administration of programs under the Act (§104.31). This board may delegate any of its responsibilities (§104.33) except those listed in §104.32 (a) to (d). The State must also assign full-time personnel to assist in reducing sex discrimination and sex stereotyping in vocational education programs and activities throughout the State (§104.72). Each State is to expend $50,000 from the basic grant for this purpose (§104.74).

Each State must establish a State advisory council composed of at least 20 designated interests (§104.92). There must be an appropriate representation by sex, race, ethnicity, and geography on the council to effectively reflect the diverse interests and needs of the general public (§104.92(d)). The functions and responsibilities of the State advisory council are expanded to include identifying manpower as well as vocational needs, commenting on the reports of the State Manpower Services Council, and providing technical assistance to local advisory councils (§104.93). The expenditure of funds made available to the council is to be determined solely by the council for carrying out its functions (§104.98).

Each local educational agency (LEA) and postsecondary institution eligible to receive Vocational Education Act (VEA) funds through the State board must establish a local advisory council composed of members of the general public to provide advice on job needs and general policy courses to those needs (§104.111).

Each State must also establish a State Occupational Information Coordinating Committee (SOICC) (§104.122). This SOICC must implement an occupational information system in the State which will meet the common needs for the planning for, and operation of, programs of the State board and of the administering agencies under the Comprehensive Employment and Training Act (§104.123).

PLANNING

To be eligible to receive funds, a State must maintain on file with the Commissioner a general application containing twelve assurances covering a broad range of administrative and fiscal matters (§104.141). This application includes the assurance that the State will give priority, in distributing funds, to (1) economically depressed areas and areas with high unemployment rates which are unable to meet the vocational needs of these areas without Federal assistance, and to (2) programs which are new to the areas to be served and which meet the new and emerging manpower needs. The State must also use as the two most important factors in distributing funds to local educational agencies (1) the relative financial ability to provide needed services and (2) the relative concentration of low-income populations within such agencies. In the case of other eligible recipients, the State must use, as the two most important factors, the recipient’s relative financial ability to provide needed services and the relative concentration of students it serves who impose...
higher than average costs (e.g. handicapped, disadvantaged, those with limited English-speaking ability).

The State must submit to the Commissioner a plan by July 1, 1977 for fiscal years 1978 through 1982 and a second five-year State plan on July 1, 1982 for fiscal years 1983 through 1987 (§ 104.161).

In formulating the plan, the State board is to have actively a representative of the State agencies for secondary education, postsecondary vocational education, community and junior colleges, and institutions of higher education. The State board must also involve representatives from local school boards, vocational teachers, local school administrators, the State Manpower Services Council, the State agency for Comprehensive Postsecondary Education Planning, and the State advisory council (§ 104.162).

The State board and these designated representatives must meet at least four times during the planning year (§ 104.163). If these representatives are not able to agree on the contents of the State plan, the State board is responsible for a final decision (§ 104.164). In this event, the State board must include in the plan the recommendations rejected by the State board and the reason for each rejection.

Any disadvantaged agency may appeal the State board’s decision to the Commissioner (§ 104.281). The Commissioner will then decide whether that State plan is supported by substantial evidence as shown in the State plan, and will best carry out the purposes of the Act (§ 104.288).

The five-year State plan must contain the procedures for carrying out certain aspects of the general application (§ 104.182) and the specific program provisions described in §§ 104.183 through 104.188. These provisions include an assessment of employment opportunities in the State (§ 104.183), the goals the State will seek to meet employment needs (§ 104.184), the planned funding to meet employment needs (§ 104.185), the intended uses of special program needs (§ 104.186), the policies adopted by the State to eradicate sex discrimination (§ 104.187), and a description of the mechanism established for coordination between manpower training programs and vocational education programs (§ 104.188).

The planning process also includes the submission of an annual program plan (§ 104.202) and an annual accountability report (§ 104.203). The procedural requirements for developing the five-year plan are also applicable to the annual plan and accountability report. The number of required planning meetings is reduced to three (§ 104.205).

Even though the annual plan is essentially an updating of the five-year plan, it must contain the proposed distribution of funds among eligible recipients. The additional requirements of the annual plan are described in §§ 104.221 and 104.222. The content of the annual accountability report is described in § 104.241.

FISCAL REQUIREMENTS

Federal VEA funds must be used to share only in expenditures which are made in accordance with the assurances of the general application, five-year State plan and annual program plan (§ 104.301). The Federal share of expenditures under the five-year State plan and annual program plan may not exceed 60 percent of the cost of the program (§ 104.302).

The fiscal requirements for allowable expenditures for the national priority programs are described in § 104.304. At least 10 percent of the State's allotment under section 102(a) of the Act is to be used to pay up to 50 percent of the cost of special programs, services, and activities for the handicapped (§ 104.312); at least 20 percent of the State's allotment under section 102(a) of the Act is to be used to pay up to 50 percent of the costs of special programs, services, and activities for the disadvantaged, for persons with limited English-speaking ability and for stipends for students with acute economic needs which cannot be met under other programs (§ 104.313); and at least 15 percent to pay up to 50 percent of the costs of programs and services (including training, counseling, and hospital services) for persons age 15-24 to the entire population of the State in the same age bracket (§ 104.314).

The percentage of the 20 percent set-aside which goes to persons with limited English-speaking ability is equivalent to the percentage of such persons age 15-24 are to the entire population of the State in the same age bracket (§ 104.313).

The Federal share for State administration of the five-year State plan and annual program plan, from funds allotted to the State under section 102(a) of the Act, is up to 50 percent of the cost of administration of the plans (§ 104.309). The Federal share in fiscal year 1978 is up to 80 percent and in fiscal year 1979 the Federal share is up to 60 percent. The Federal share for the cost of local, State, and administrative expenditures for research programs (including the Federal VEA funds (§ 104.771). The Federal share for research programs (§ 104.705) must be computed in accordance with either of the two methods set forth in § 104.307.

STATE EVALUATION

Each State must evaluate the effectiveness of its own program, both at periodic intervals (§ 104.402). These evaluations must be consistent with the planning and operational processes, results of student achievement, results of student employment success, and results of additional services that the State provides under the Act of special populations (§ 104.402). Programs which purport to impart entry level job skills are to be evaluated according to the extent to which they prepare the participants to find employment in related occupations and are considered well-trained by their employers (§ 104.404).

BASIC GRANT

Each State shall use its basic grant, which is 80 percent of the funds allotted under section 102(a) of the Act, for the purposes provided under § 104.307. These purposes include vocational education programs, work-study programs, cooperative vocational programs, energy education programs, construction of vocational education facilities, support of full-time personnel to eliminate sex biases, stipends for students who have acute economic needs which cannot be met by other programs, support for services for students whose needs cannot be met by other programs, industrial arts programs, support services for women who enter programs designed for private individuals for employment traditionally limited to men, day care services for children of persons enrolled in vocational schools, construction and operation of residential vocational schools, provision of vocational training through arrangements with private vocational training institutions and State and local administration, and a number of other purposes.

PROGRAM IMPROVEMENT AND SUPPORTIVE SERVICES

The State must use 20 percent of its allotment under section 102(a) of the Act for Subpart 3-program improvement and supportive services (§ 104.703). Under program improvement and supportive services, funds may be used for research programs (§ 104.705), exemplary and innovative programs (§ 104.706), and curriculum development programs (§ 104.708). These programs are to be operated by research coordinating units (RCU) or are to be conducted by contracts awarded by the RCU (§ 104.704). The State must develop a comprehensive plan of program improvement which includes the intended uses of funds and a description of the State’s priorities. The pertinent contract requirements for program improvement and supportive services, funds are set forth in § 104.706. Exemplary and innovative programs must provide priority to reducing sex bias and sex stereotyping in vocational education (§ 104.706).

Not less than 20 percent of the funds reserved for program improvement and supportive services are to be used for guidance and counseling services which may include initiation and improvement of counseling services, counseling leading to greater understanding of educational and vocational options, provision of placement and follow-up services for vocational students and individuals preparing for occupations requiring a baccalaureate or higher degree, training to help overcome race-, sex-, or ethnic-based counseling, counseling in correctional institutions, counseling for persons of limited English-speaking ability, resource centers for out-of-school individuals, and leadership for guidance and counseling personnel (§ 104.763).

The State may also use part of the funds reserved for program improvement and supportive services for vocational education (§ 104.771). Training may be provided to
persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel (§ 104.773).

Funds under program improvement and supportive services may also be used for grants to overcome sex bias and sex stereotyping (§ 104.793). The purpose of these grants is to support activities which show promise of overcoming sex bias and sex stereotyping in vocational education and may be in the areas of research, curriculum development or guidance and counseling (§ 104.793).

The State may also use part of the funds reserved for program improvement and support services for State and local administration (§§ 104.306 and 104.307).

SPECIAL PROGRAMS FOR THE DISADVANTAGED

Each State must use the funds allotted to it from the authorization under section 102(b) of the Act for special programs of vocational education for disadvantaged persons in areas of high youth unemployment or school dropouts (§ 104.302). The criteria of need and eligibility for disadvantaged persons are described in § 104.804. These projects for the disadvantaged may receive up to 100 percent Federal support (§ 104.802).

CONSUMER AND HOMEMAKING

The State must also use the funds allotted to it from the authorization under section 102(c) of the Act for programs of consumer and homemaking education (§ 104.901). The Federal share is 60 percent except in economically depressed areas where the Federal share is 90 percent (§ 104.906). One-third of the separate authorization is for economically depressed areas. Grants may be used for (1) educational programs that encourage males and females to prepare for combining homemaking and wage earning roles, develop curriculum materials which encourage elimination of sex stereotyping, and give due consideration to needs in economically depressed areas, encourage outreach programs, prepare persons for the homemaker role, emphasize consumer, nutrition, and parental education (§ 104.904) and (2) for ancillary services (§ 104.905).

An appendix containing definitions is added at the end of Part 105.

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS

PROGRAM IMPROVEMENT

Under this subpart the Commissioner is authorized to support projects of national significance for improvement of vocational education primarily through contracts and, in some cases, through grants (§ 105.101). The Commissioner may fund up to 100 percent of the cost of the following types of activities if they are found to be of national significance: (a) Research projects; (b) exemplary and innovative projects; (c) vocational curriculum development projects; (d) vocational instruction in counseling programs; (e) vocational education personnel training programs; and (f) grants to assist in overcoming sex bias and sex stereotyping (§ 105.104).

A grant applicant must be able to demonstrate a probability that the project will result in improved teaching techniques or curriculum materials which will be used in a substantial number of classrooms or other learning situations within five years after the termination date. Exemplary and innovative projects must provide for appropriate participation by nonprofit private and public organizations (§ 105.203). Activities which are funded shall include contracts to convert job preparation curriculums prepared for use by the armed services to curriculums usable by the schools (§ 105.103).

CONTRACT PROGRAM FOR INDIAN TRIBES

The Commissioner will enter into contracts with Indian tribal organizations at the request of Indian tribes to plan, conduct, and administer programs which are consistent with the Act and regulations (§ 105.201). The sections of the Indian Self-Determination and Education Assistance Act which are applicable are set forth in § 105.202. The criteria for the selection of award recipients are in § 105.211. Additional factors for declining applications into a contract are listed in § 105.212.

TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

The Commissioner is to provide opportunities for full-time advanced study of vocational education, opportunities for certified teachers in other fields to become vocational education teachers, and opportunities for persons in industry with skills in fields for which there is a need for vocational educators to be so trained (§ 105.302 and 105.303). Persons having two years of experience in vocational education or in comparable types of situations and who have a baccalaureate degree may receive awards for use at the participating institutions of higher education (§ 105.304). Persons certified to teach in any field who have applicable vocational skills or persons employed in industry with such skills may receive awards for use in approved teacher-training institutions (§ 105.311). The criteria for approving applications for leadership development awards are in § 105.309. The criteria for approving applications for certification fellowships are in § 105.443.

EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATING OF VOCATIONAL EDUCATION FACILITIES

The Commissioner will make grants to urban and rural local educational agencies which are unable to provide vocational programs to meet existing manpower needs because of the obsolescence of their facilities or equipment (§ 105.506). Grants may be used to support 75 percent of the costs of remodeling such facilities (100 percent in cases of extreme need) and the cost of changes necessary to comply with the Architectural Barriers Act of 1968 (§ 105.502). The criteria for approving applications are set forth in § 105.505.

BILINGUAL VOCATIONAL TRAINING

The Commissioner will make grants to support bilingual vocational training programs (§ 105.601), bilingual vocational instructor training programs (§ 105.611), and programs for the development of bilingual instructional materials (§ 105.621). The criteria to be used in reviewing applications for these three programs are set forth in §§ 105.605, 105.616, and 105.626 respectively.

TECHNICAL AMENDMENTS

On June 3, 1977, Pub. L. 95-40 was signed into law by the President. This Act makes several technical and miscellaneous amendments to provisions relating to vocational education contained in Title II of the Education Act. These programs are to be effective as of October 1, 1977, and are necessary to have the publication of final regulations at this time.

The amendments contained in Pub. L. 95-40, other than those merely typographical, are briefly summarized in the following paragraphs. (The numbered paragraphs do not correspond to the sequential order of the Technical Amendments.) In each instance in which a conforming change is made in the regulation, a citation to the regulation is given.

1. Use of Federal funds for State administration is deleted from the authorization of section 102(d) and is made an allowable use of funds under the authorization of section 102(e). This amendment has the effect of removing the $25 million limitation on use of Federal funds for State administration which was contained in section 102(d).

2. Instead of the State having the flexibility to use the whole of its Federal funds, it is necessary for prudent State administration of vocational programs. Federal funds used for State administration, however, must be expended in accordance with the State plan and the matching requirements of section 111(a)(2). In addition, Federal funds used for State administration must be prorated between the amount available for basic grants in part 2 (60 percent) and programs improvement and support services in sub-
part 3 (20 percent). Although this division will prevent administrative expenses from being disproportionately charged against a single program activity, it is not required that administrative personnel be distributed in an 80/20 ratio between subpart 2 and subpart 3 activities. Rather, the rule may use administrative personnel in whatever proportion best meets its needs. Section 104.306 of the NPRM is rewritten to conform to these changes in the Act.

(2) Pub. L. 95-46 permits local administrative and supervisory costs to be paid out of the State's allotment under section 102(a). Federal funds used for local administration must also be prorated between subpart 2 (60 percent) and subpart 3 (20 percent).

Section 111(a) (1) (C) sets forth two methods for computing the Federal share. In the first case, the percentage of Federal funds for the administration to the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is $100,000 and the Federal cost is 40 percent of this eligible recipient's cost. Therefore, the total cost is $25,000 or 25 percent of the total. If local administrative costs are $10,000, then up to 25 percent of this amount or $2,500 may be charged against the Federal funds.

The second method allows up to 50 percent of the costs of supervision and administration to be charged to Federal funds to the extent funds match Federal funds dollar for dollar. State funds used to match Federal funds must be specifically made available for the purpose of local administration. For example, if the total cost of local administration is $10,000, then up to $5,000 may be charged to Federal funds as long as the State contributes the same amount from a specific State appropriation.

Both methods for computing local administrative costs are contained in a new regulation, § 104.307.

(3) Section 110 of the Act is amended to allow all programs, services, and activities listed in subpart 2 (section 120) and subpart 3 (section 130) to be applied against the minimum percentages for the national priority programs (i.e., handicapped, disadvantaged, and postsecondary). Previously, the cost of vocational education programs as defined in section 195 was the only allowable use of funds to meet the section 110 minimum percentage requirement. In addition, the amendments remove any ambiguity in the Act by applying the three minimum percentages for the national priority programs directly against the section 102(a) authorization. Sections 104.303 and 104.304 are revised to conform to these statutory changes.

(4) Section 120 of the Act is amended to authorize the use of Federal funds for vocational training through private vocational training institutions. Arrangements may be made with these institutions if they can make a significant contribution to attaining the objectives of the State plan, and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions. The definition of "private vocational training institutions" is added to section 135 of the Act. Sections 104.302 and 135.1 are amended accordingly. The new definition is added to Appendix A to these regulations.

(5) Sections 132 and 133 of the Act are amended to clarify that the State's research coordinating unit shall be responsible for coordinating exemplary and innovative programs (section 132) and curriculum programs (section 133) as well as research programs in section 131.

(6) Substantive changes are made to the section 103(a) (1) (B) responsibilities for the Bureau of Indian Affairs (BIA).

First, the amended section 103(a) (1) (B) begins in fiscal year 1978, to expend an amount which is equal to the amount available to the Commissioner for the Indian contract program for vocational education programs and activities. BIA must expend not less than the amount expended during the prior year on these programs. In addition, the Commissioner of Education and the Commissioner of Indian Affairs will jointly prepare a plan for the expenditure of the funds and for the evaluation of programs assisted under this part. The Commissioner of Indian Affairs will be responsible for the administration of the program with the assistance and consultation of the Bureau of Indian Affairs. BIA is no longer deemed a State board. Accordingly, the reference in § 165.214 in the NPRM to BIA being deemed a State board is deleted.

(7) The Technical Amendments amend the eligibility provision for Indian tribes to participate in a program. Section 103(a) (1) (B) extends the authority of the Commissioner to contract for vocational programs with any Indian tribe which is eligible to contract for administration of programs under the Indian Self-Determination Act, rather than just those tribes which have actually contracted under that Act. The corresponding change is made to § 105.205.

(8) The Amendments include the Northern Mariana Islands as a State for the purpose of the Vocational Education Act and also include the Northern Mariana Islands with the other outlying areas for determination of allotment ratios under the Act.

(9) Section 105(d) (4) (A) is amended to require State advisory councils on vocational education to assess the extent to which special education programs as well as vocational education programs meet the needs of the State. Section 104.304(f) of the regulations is amended to reflect this additional responsibility in relation to special education.
Another legally supportable interpretation which would result in a significant change in the method by which Federal funds are distributed by the States to handicapped and disadvantaged persons was given serious consideration by the Commissioner during the comment period. Under this interpretation, the State would apply the percentage of persons of limited English-speaking ability to the entire allotment under section 102(a), but such amount could not exceed the total amount reserved for the section 110(b)(1) set-aside. In accordance with this interpretation, if the limited English-speaking population of the State is 10 percent, then 10 percent of the set-aside (rather than 10 percent of the set-aside) would be earmarked for the limited English-speaking population.

Since the Act is susceptible of two interpretations, the Commissioner has decided to retain the interpretation contained in the NPRM, set forth in §104.313(c). The Commissioner believes that the adoption of the latter interpretation would place drastic limitations on funds available for other disadvantaged students' needs and would unduly undermine many on-going vocational education programs for disadvantaged persons.

Section 110(a) of the Act requires each State to expend at least 10 percent of its allotment under section 102(a) for the "cost of vocational education for handicapped persons." Section 110(b) requires at least 50 percent of the allotment under section 102(a) to be expended for the "cost of vocational education for handicapped persons * * * ."

The statutory language "cost of vocational education," in sections 110(a) and 110(b) was interpreted in the NPRM to mean "full cost." It was stated in the preamble at 42 F.R. 18549 that, as long as the State complies with the matching requirements of the Act, the State could use the combined Federal, State, and local funds to pay the entire cost of the vocational education program for handicapped and disadvantaged persons. In other words, Federal funds for vocational education programs for handicapped and disadvantaged persons were not limited solely to the cost of special services needed by the handicapped and disadvantaged.

Many commenters believed that the interpretation contained in the NPRM was a serious misreading of Congressional intent. According to these commenters, unless the Federal and matching State and local funds were used to pay the total costs of necessary program modifications, supplementary services, and the cost of providing vocational education for handicapped and disadvantaged persons, funds available to accommodate these special populations would be greatly reduced. These comments suggested that the statutory language "cost of vocational education" must be read in the context of the definitions of "handicapped" and disadvantaged persons. The Commissioner agrees that paragraphs (a) and (b) of section 110 are susceptible of the interpretation professed by these commenters. Since a reduction in services for handicapped and disadvantaged persons might result by charging the full cost of the vocational education program against the required minimum, the comments in support of charging the excess costs are accepted. Accordingly, §104.313 of the regulations is amended to require the Federal and matching State and local funds to be used to pay only the "excess costs," (that is, the costs of special education and related services above the costs of the regular students) of the programs for the handicapped and disadvantaged. For example, if the cost of providing vocational training to the non-handicapped student is $600, and the cost of providing vocational training to the handicapped student in the same class is $750, the State may use the combined Federal, State, and local funds to pay the supplemental cost of $150 for the vocational education program for the handicapped student.

Alternatively, if the handicapped or disadvantaged student is placed in a separate program, Federal, State and local funds may only be used to pay those costs which exceed the average per pupil cost for vocational education for non-handicapped or non-disadvantaged students.

3. PROVIDING DATA BY "PROGRAMS" RATHER THAN "COURSES"

Section 104.184(a) of the NPRM contained a requirement that the five-year State plan describe the State's goals in terms of the "programs (courses) and other training opportunities to be offered to meet employment needs." "Program" is defined as a "planned sequence of courses, services, or activities designed to meet an occupational objective." Since the Act uses the term "courses," there has been considerable debate during the development of the regulations over which term, "program," or "course" carries the proper interpretation in line with Congressional intent. The major difficulty in changing from "programs" to "courses" in the final regulations is that it would create an undue reporting burden on the States and would greatly increase paperwork. Another problem is that "course" has no standard definition throughout the States, while "program" is specifically defined by the Office of Education in Handbook VI, entitled "Standard Terminology for Curriculum and Instruction in Local and State School Systems" (1970), which currently provides reporting on at least 160 designated programs. Educators are familiar with OS's list of "instructional programs." The definitions are used by States when the "courses" would be very difficult to obtain since all reporting presently is in...
terms of “programs.” Definitions of “courses” vary from State to State and within a particular State. Since “course” is not a standardized term, aggregation of data would be virtually impossible.

In view of these difficulties, reporting data by programs rather than by courses should provide sufficient detail in the five-year State plan to meet the intent of the law adequately. Accordingly, the text of the final regulation has not been changed.

4. DEFINITIONS OF “ADULT PROGRAM” AND “POSTSECONDARY PROGRAM”

A great many comments were received in relation to the definitions of “adult program” and “postsecondary program” as they appeared in the Appendix to Part 104 in the Notice of Proposed Rulemaking. These comments objected to the definitions on three grounds:

(1) The definitions are not contained in the Act.

(2) They would jeopardize the student’s eligibility for a Basic Educational Opportunity Grant (BEOG) or a College Work Study (CWS) grant.

(3) There is no post-high school programs in vocational and technical schools.

While it is true that the definitions, labeled as such, are not in the new Act, the language definitions as set forth in Appendix A is taken directly from section 110(c) of the Act, which requires the State to set aside 15 percent of its funds for post-secondary programs in two categories. While these two categories of persons are not labeled in section 110(c) as “adults” or “postsecondary,” they are so labeled in the legislative history of the Act (H. Rept. No. 94-1065, pp. 48-49) which indicates strong Congressional intent that the definitions be used to avoid the “enormous confusion” which has existed in reporting adult and postsecondary programs and that “a majority of the States urged Congress to clarify these definitions.”

Further study has indicated clearly that the definitions of “adult program” and “postsecondary program” will not affect a student’s eligibility for a BEOG or CWS grant. Eligibility for grants under these programs is dependent on the Act and regulations for the particular program; they are not affected by definitions in the new Vocational Education Act or the regulations under the Act.

The definitions are intended, as the legislative history makes clear, for reporting (in the annual program plan and accountability report) and not for allocation purposes. Section 110(c) of the new Act, and the regulations for the particular program, require a set-aside of 15 percent of funds to both categories; it does not require any specific apportionment between the two categories. Since a State may apportion its 15 percent set-aside between adult and postsecondary programs according to its decision as set forth in its State plan, the definitions as used in the Appendix to Part 104 will not “eliminate” any program at the school level in a vocational and technical school. Nor should the definition in any way encourage States to favor post-high school level programs in community or junior colleges (which lead to an associate or other degree) over those in vocational and technical schools (which lead to a certificate). Comments and commenters suggested that post-high school programs leading to a certificate should be added to the definition of “postsecondary” program.” The legislative history is clear (H. Rept. No. 94-1065, bottom of page 48 and top of page 49), that such programs are to be considered for reporting purposes as adult programs.

5. EQUAL ACCESS FOR MINORITIES AND WOMEN

With respect to the policies and procedures that assure equal access for minorities and women, the question was posed whether the Office of Education will require more than a simple “we will not discriminate” statement in the five-year State plan.

Section 107(b)(4) (A) of the Act and § 104.187(a) of the regulations require the State to set forth a detailed description of the policies and procedures to assure equal access to programs by women and men. This description must include the specific actions taken to overcome sex discrimination and the incentives adopted to encourage both women and men in nontraditional courses. A perfunctory statement in the five-year State plan that “we will not discriminate” will not satisfy this requirement.

The issue of equal access for minorities is not specifically addressed in the Vocational Education Act. Federal financial assistance under the Act, however, is subject to the regulations in 45 CFR Part 80 which effectuate the provisions of Title VI of the Civil Rights Act of 1964. These civil rights requirements are referenced in 45 CFR 100b.235 of the General Education Provisions Regulations and have a direct application to the vocational education regulations. In this connection, it is expected that the Office will adopt its own five-year plan and annual program plan for civil rights compliance, particularly in the program areas serving women, minorities, and the handicapped.

EXPLANATION OF THE DOCUMENT

SELF-CONTAINED DOCUMENT

The regulations are designed as a self-contained document, making it unnecessary to refer to the Act. Accordingly, the regulations repeat all essential requirements of the Act so that the States, local educational agencies, and other eligible recipients under the Act may at any time consult the regulations without reference to the Act.

Reference to the General Education Provisions Act (GEPA) and the General Education Provisions Regulations (GEPR) will, however, be necessary. In particular, the civil rights requirements referenced in the General Education Provisions Regulations (45 CFR 100b.262 and 45 CFR 100b.263) have a direct application to Part 104 and Part 105. In addition, Federal financial assistance under the Vocational Education Act is subject to the regulations in 45 CFR Part 80 (which effectuate the provisions of Title VI of the Civil Rights Act of 1964), the regulations in 45 CFR Part 84 (which effectuate Section 504 of the Rehabilitation Act of 1973), and to the regulations in 45 CFR Part 86 (which effectuate the provisions of Title IX). Title IX 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. To repeat these civil rights requirements, as well as the requirements of the General Education Provisions Regulations, In Part 104 and Part 105 would defeat the express purpose of the General Education Provisions Regulations, which is to publish in one place regulations which affect the various education programs generally.

TECHNICALITIES

To make reading and understanding of the regulations easier, the new Vocational Education Act is referred to simply as the “Act.” Sections of the Act are referred to in the text, for example, as “section 101 of the Act.” A section of the regulations is referred to, for example, as “§ 104.101” with use of the section symbol (§). The phrase “of these regulations” is not repeated. Thus a reference to “section 101” should be recognized as a reference to section 101 of the Act; a reference to “§ 104.101” is a reference to § 104.101 of the regulations.

To make the regulations more readable (and at the same time shorter) Acts or regulations which are frequently mentioned are referred to by their acronyms, “CETA,” “GEPA,” “GEPR,” for example. The Department of Health, Education, and Welfare is “HEW.” If an acronym is used, it is defined in the definitions or the text.

CITATION TO LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act (42 U.S.C. 2931), a citation to the statutory or other legal authority for each provision of the regulations has been placed in parentheses on the line immediately following the text of the regulation. Each citation applies to the text of the regulations between that citation and the next preceding citation.

Citation is to the Vocational Education Act and Regulations (42 U.S.C. 2931, as amended by Title II of the Education Amendments of 1976 (Pub. L. 94-482), as further amended by Pub. L. 95-354, unless otherwise noted. Citation to another act refers to the other act by name or number (for example, “section 343 of the Act” is a citation to section 343 of the Vocational Education Act). Citation to the United States Code (42 U.S.C. 2931) generally follows a citation to a section of the Act.
It is important to note that a citation standing alone means that the regulation closely follows the section of the Act cited, with only minor editorial simplification. Where language is added in the regulation in order to interpret the Act, the citation reads "(Interprets Sec. . . . )." Where the regulation implements the Act, such as when criteria are set forth, the citation reads "(Implements Sec. . . . )."

INTERNAL FEDERAL MATTERS NOT REGULATED

The requirements of the Act relating to matters of internal Federal administration are not set forth in the regulations. For example, these regulations do not repeat the statutory requirement that the President appoint members of the National Advisory Council on Vocational Education (section 162 of the Act). Likewise, the regulations do not address the following duties of the Bureau of Occupational and Adult Education (section 160 of the Act): (b) the requirement that the Commissioner make findings and suggestions in relation to the programs (section 112(a)(1) of the Act); (c) the requirement that the Bureau of Occupational and Adult Education (BOAE) review and analyze the programs in at least 10 States a year (section 112(a)(2) of the Act); (d) the requirement that the HEW Audit Agency conduct fiscal audits within the same States in which BOAE conducts its reviews (section 112(c)(2) of the Act); (e) the requirement that the Commissioner file an annual report with Congress (section 112(c)(3) of the Act); and (f) the duties of the National Occupational Information Coordinating Committee (section 161(b) of the Act).

To conclude, in general terms, matters of internal Federal administration appearing in the Act under "Federal and State Evaluation" (section 110 of the Act) and "Federal Administration" (sections 160-162 of the Act) are not set forth in the regulations.

The Act provides for appeal to the United States Court of Appeals in several instances, including an appeal from the Commissioner's findings of noncompliance with the State plan (section 109(d)). Since an appeal to the courts is a legal matter to be handled by attorneys, the procedures for appeal set forth in the Act are not repeated in the regulations.

The Commissioner's delegations of authority are not set forth in the regulations. Hence, when the regulations say "the Commissioner" will perform a function, the Commissioner's authority to perform this function may have been delegated to another official in the Office of Education.

Appendix A, containing definitions of terms, is set forth following the text of the regulations for Parts 104 and 105. Appendix B contains questions and answers raised by interested persons with respect to the implementation of the Act. These questions raised important policy considerations and have legal significance. Following Appendix B, the comments, suggestions, and recommendations received during the rulemaking period and the responses to these comments are set forth as supplementary information.

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 11281 and OMB Circular A-107.

Dated: August 18, 1977.

JOHN ELLIS,
Acting Commissioner
of Education.

Approved: September 26, 1977.

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


PART 100—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

1. In part 100a, §100a.10(a) (11) and §100a.10(a) (26) (relating to programs under the Education Professions Development Act) are amended to read as follows:

§100a.10 Scope.

(a) . . .

(11) Programs of contracts with Indian tribal organizations under section 103(a) (1) (B), programs of national signals under sections 171 and 172 of subpart 2 of Part B; programs of bilingual vocational training under sections 181-189B of subpart 3 of Part B; and programs of emergency assistance for re-modeling and renovation of vocational education facilities under sections 191-194 of Subpart 4 of Part B, of Title I of the Vocational Education Act of 1963, as amended by sections 202 of Pub. L. 94-482 (20 U.S.C. 2303(a) (1)(G), 2401, 2402; 2411-2421; 2411-2444).

. . .


. . .

PART 100B—STATE ADMINISTERED PROGRAMS

2. In part 100b, §100b.10(1) is amended to read as follows:

§100b.10 Scope.

. . .


PART 100C—INDIRECT COSTS UNDER CERTAIN PROGRAMS

3. In part 100c, §100c.1(1) is amended to read as follows:

§100c.1 Scope.

. . .


4. New Parts 104 and 105 are added to read as follows:

PART 104—STATE VOCATIONAL EDUCATION PROGRAMS

Subpart I—State Administration

Sec. 104.1 Scope.
104.2 Purpose.
104.3 Appropriability of General Education Provisions Regulations.
104.4 Cross reference to definitions.
104.5 Requirements under Part B of the Education of the Handicapped Act.

Subpart II—State Board

104.31 Establishment of State board.
104.32 Responsibilities of the State board.
104.33 Delegation of functions.
104.34 State administration and leadership.

Subpart III—Full-time Personnel and Functions to Eliminate Sex Discrimination and Sex Stereotyping

104.71 Scope.
104.72 Selection of full-time personnel to eliminate sex discrimination and sex stereotyping.
104.73 Definitions.
104.74 Funds for full-time personnel and functions.
104.75 Functions of full-time personnel.
104.76 Studies to carry out functions.

Subpart IV—Federal Advisory Council

104.81 Establishment and certification.
104.82 Membership.
104.83 Functions and responsibilities.
104.84 Meetings and rules.
104.85 Staff and services.
104.86 Fiscal control.
104.87 Annual evaluation report.

Subpart V—Local Advisory Councils

104.101 Establishment of local advisory councils.
104.102 Duties of local advisory councils.
104.103 Educational and information data systems.

Subpart VI—National and State Occupational Information Coordinating Committees

104.121 Establishment of National Occupational Information Coordinating Committees.
(3) To develop and carry out such pro-
grams of vocational education within each
State so as to overcome sex discrimination
and sex stereotypes in vocational education
programs (including programs of homemak-
ing), and thereby furnish equal educational
opportunities in vocational education to per-
sons of both sexes, and
(4) To provide part-time employment for
youths who need the earnings from such em-
ployment to continue their vocational
training on a full-time basis, so that persons
of all ages in all communities of the State,
those in high school, those who have com-
pleted or discontinued their formal edu-
cation and are preparing to enter the labor
market, those who have already entered the
labor market, but need to upgrade their skills
or learn new ones, those with special edu-
cational handicaps, and those in postsec-
ondary schools, will have ready access to
vocational training or retraining which is of
high quality, which is realistic in the light of
actual or anticipated opportunities for gain-
ful employment, and which is suited to their
needs, interests, and ability to benefit from
such training.

(b) The purpose of these regulations is to
assist the States, local educational
agencies, postsecondary institutions, and
other institutions capable of carrying out
vocational education programs, to ad-
minister the federally assisted State pro-
grams of vocational education under the
Act.

\section{104.31 Establishment of State board.}

(a) A State desiring to participate in
provisions of Part B of the Education of the Handicapped Act
before the National Board of
Education, shall, consistent with State law, designate or establish a

\section{104.3 Cross reference to definitions.}

Definitions necessary for the under-
standing of Parts 104 and 105 are set
forth in Part C of Title I of the Act
(section 195 of the Act) and as Appendix
A at the end of Part 105 for these regu-
lations. Some additional definitions nec-
essary for the understanding of Part 105
appear in Part 105.

\section{104.4 Requirements under Part B of
the Education of the Handicapped Act.}

(a) Regulations under Part B of the
Education of the Handicapped Act are
located in 45 CFR Part 121a.

(b) Section 612(b) of the Education of the
Handicapped Act requires that the State
educational agency be responsible
for ensuring that all educational pro-
grams for handicapped children within the
State, including all of those pro-
grams administered by any other State
or local agency, are under the general
supervision of persons responsible for
educational programs for handicapped
children in the State educational agency.

\section{104.5 State Board}

State Board

\section{104.31 Establishment of State board.}

(a) A State desiring to participate in
provisions of Part B of the Education of the Handicapped Act
before the National Board of
Education, shall, consistent with State law, designate or establish a
§ 104.32 Responsibilities of the State board.

The responsibilities of the State board include (but are not limited to):
(a) Coordination of the development of policy with respect to programs under the Act (as set forth in §§ 104.162, 104-163, 104.204, and 104.205);
(b) Coordination of the development of the five-year State plan (as set forth in § 104.181), the annual program plan (as set forth in §§ 104.221 and 104.222), and the accountability report (as set forth in § 104.261);
(c) The submission to the Commissioner of the five-year State plan, the annual program plan, and the accountability report; and
(d) Consultation with the State advisory council on vocational education and with other State agencies, councils, and individuals (as set forth in § 104.182).

(See. 104(a) (1), (A), (B), and (C); 20 U.S.C. 2304.)

(e) Cooperation with the Administrator of the National Center for Educational Statistics in the development and submission of information required for a national vocational education data reporting and accounting system.

(See. 161(a); 20 U.S.C. 2391.)

§ 104.33 Delegation of functions.

The State board may delegate any of its responsibilities (except those responsibilities set forth in § 104.32), in whole or in part, to one or more appropriate agencies.

(See. 104(a) (1); 20 U.S.C. 2304.)

§ 104.34 State administration and leadership.

The State board shall provide for a State sufficiently qualified by education and experience and in sufficient numbers to enable the State board to carry out its functions under the State plan. The State board staff shall include a full-time State director.

(Implements sec. 104(a) (1) and sec. 106(a) (1).)

FULL-TIME PERSONNEL AND FUNCTIONS TO ELIMINATE SEX DISCRIMINATION AND SEX STEREOTYPING

§ 104.71 Scope.

Sections 104.72 through 104.76 apply only to the fifty States and the District of Columbia. (These sections do not apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Northern Mariana Islands, or the Trust Territory of the Pacific Islands.)

(See. 104(b) (4); 20 U.S.C. 2304.)

§ 104.72 Selection of full-time personnel to eliminate sex discrimination and sex stereotyping.

(a) A State desiring to participate in the programs authorized by the Act shall select personnel to work full time to assist the State board in fulfilling the purposes of the Act concerned with:
(1) Furnishing equal educational opportunities in vocational education programs to persons of both sexes; and
(2) Eliminating sex discrimination and sex stereotyping from all vocational education programs.

(Sees. 101(b), 101(b) (1); 20 U.S.C. 2301, 2304.)

(b) In selecting the full-time professional personnel, the State shall match the qualifications of the applicants with the responsibilities of the job.

(Implements Sec. 104(b) (1); 20 U.S.C. 2304.)

§ 104.73 Definitions.

The following definitions apply for the purposes of §§ 104.72 through 104.76 and throughout the Act and regulations.
(a) "Sex bias" means behaviors resulting from the assumption that one sex is superior to the other.
(b) "Sex stereotyping" means attributing behaviors, abilities, interests, values, and roles to a person or group of persons on the basis of their sex.
(c) "Sex discrimination" means any action which limits or denies a person or a group of persons opportunities, privileges, roles, or rewards on the basis of their sex.

(Implements Sec. 104(b); 20 U.S.C. 2304.)

§ 104.74 Funds for full-time personnel and functions.

(a) Each State shall expend not less than $50,000 in each fiscal year from funds available under basic grants (section 120 of the Act) to support the personnel working full time to carry out the functions set forth in § 104.72.

(See. 104(b) (2), 120(b) (1) (F); 20 U.S.C. 2304, 2305.)

(b) Funds set aside under paragraph (a) of this section shall be used for:
(1) Salaries for full-time professional staff;
(2) Salaries for support staff; and
(3) Travel and other expenses directly related to the support of personnel in carrying out the functions set forth in § 104.72.

(Implements Sec. 104(b); 20 U.S.C. 2304.)

§ 104.75 Functions of full-time personnel.

Personnel designated under § 104.72 shall work full time to:
(a) Take action necessary to create awareness of programs and activities in vocational education designed to reduce sex bias and sex stereotyping in all vocational education programs, including assisting the State board in publicizing the public hearings on the State plan in accordance with § 104.165(a);
(b) Gather, analyze, and disseminate data on the status of men and women students and employees in vocational education programs of the State;
(c) Develop and support actions to correct problems brought to the attention of this personnel through activities carried out under paragraph (b) and § 104.76, including creating awareness of the Title IX complaints and processes;
(d) Review the distribution of grants and contracts by the State board to assure that the interests and needs of women are addressed in all projects assisted under this Act;
(e) Review all vocational education programs (including work-study programs, cooperative vocational education programs, apprenticeship programs, and the placement of students who have successfully completed vocational education programs) in the State for sex bias;
(f) Monitor the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;
(g) Assist local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and
(h) Make available to the State board, the State advisory council, the National Advisory Council on Vocational Education, the State Commission on the Status of Women, the Commissioner, and the general public, including individuals and organizations in the State concerned about sex bias in vocational education, information developed under this section.

(See. 104(b) (1); 20 U.S.C. 2304.)

(I) Review the self-evaluations required by Title IX; and

(Implements Sec. 104(b) (1); 20 U.S.C. 2304.)

(j) Review and submit recommendations with respect to overcoming sex bias and sex stereotyping in vocational education programs for the five-year State plan and its annual program plan prior to their submission to the Commissioner for approval.

(See. 104(b) (1), 109(a) (3) (B); 20 U.S.C. 2304, 2303.)

§ 104.76 Studies to carry out functions.

A State may use funds available under section 130 of the Act to support studies necessary to carry out the functions set forth in § 104.75.

(Implements Sec. 104(b) (1); 20 U.S.C. 2304.)

§ 104.91 Establishment and certification.

(a) Establishment. A State which desires to receive funds under the Act and the regulations in this part for any fiscal year shall establish a State advisory council. The council shall be appointed.
by the Governor or, in a State in which the members of the State board are elected, by the State board itself.

(See. 105(a); 20 U.S.C. 2305.)

(b) Appointment by the State board. In order for the appointment power to be vested in the State board, under the authority of paragraph (a) of this section, a majority of its members must be individually elected by the State legislature or directly by the eligible voters of the State or of the districts which the individuals represent.

(Interprets Sec. 105(a); 20 U.S.C. 2305.)

(c) Certification. The appointing authority, required by paragraph (a) of this section, shall certify to the Commissioner the establishment and membership of its State advisory council not less than 90 calendar days before the beginning of each fiscal year.

(See. 105(b); 20 U.S.C. 2305.)

§ 104.92Z Membership.

(a) Required representation. The membership of the State advisory council shall include one or more individuals who:

(1) Represent, and are familiar with, the vocational needs and problems of management in the State;

(2) Represent, and are familiar with, the vocational needs and problems of labor in the State;

(3) Represent, and are familiar with, the vocational needs and problems of agriculture in the State;

(4) Represent State industrial and economic development agencies;

(5) Represent community and junior colleges;

(6) Represent other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

(7) Have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

(8) Represent, and are familiar with, public programs of vocational education in comprehensive secondary schools;

(9) Represent, and are familiar with, nonprofit private schools;

(10) Represent, and are familiar with, vocational guidance and counseling services;

(11) Represent State correctional institutions;

(12) Are vocational education teachers presently teaching in local educational agencies;

(13) Are currently serving as supervisors or other administrators of the local educational agencies;

(14) Are currently serving on local school boards;

(15) Represent the State Manpower Services Council established pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

(16) Represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

(17) Are women with backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training, and employment, and of sex stereotyping in vocational education, including women who are members of minority groups having special knowledge of the problems of discrimination in job training and employment against women in minority groups;

(18) Have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

(19) Represent the general public, including at least one person representing and knowledgeable about the poor and disadvantaged; and

(20) Are vocational education students who are not qualified for membership under any of the preceding clauses of this sentence.

(See. 105(a); 20 U.S.C. 2305.)

(b) Special considerations. The appointing authority, pursuant to paragraph (a) of this section, shall insure that:

(1) The State advisory council has as a majority of its members persons who are not educators or administrators in the field of education;

(2) Members of the State advisory council do not represent more than one category;

(See. 105(a); 20 U.S.C. 2305.)

(3) There is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State. The Commissioner considers the term "appropriate representation" to be representation which generally reflects the percentage of women or minorities in the population of the State or the percentage of women or minorities in the work force of the State.

(Implements Sec. 105(a); 20 U.S.C. 2305.)

(4) In order to avoid any conflict of interest, the membership of the State advisory council excludes members of the State board and members of its staff who are directly involved in State administration of vocational opportunities.

(Implements Sec. 105(d), (e); 20 U.S.C. 2305.)

(c) Term of appointment. Members of the State advisory council shall be appointed for terms of three years except that:

(1) In the case of the members appointed for fiscal year 1976, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each;

(2) An appointment to fill a vacancy shall be for the term that remains unexpired; and

(See. 105(a); 20 U.S.C. 2305.)

(3) Members serving on the State advisory council on October 1, 1977, may continue to serve for the terms for which they were appointed, but for not more than two fiscal years unless reappointed.

(See. 204(b); 20 U.S.C. 2301 note.)

§ 104.93 Functions and responsibilities.

The State advisory council shall:

(a) Advise the State board in the development of the five-year State plan submitted under the authority of § 104-181, the annual program plan submitted under the authority of §§ 104.221, and 104.222, and the accountability report submitted under the authority of § 104-241. A statement describing its consultation with the State board shall be submitted with the five-year State plan, and the annual program plan and accountability report under § 104.171(f).

(See. 105(d) (1); 20 U.S.C. 2306.)

(b) Advise the State board on policy matters arising out of the administration of programs under the approved five-year State plan, the annual program plan, and the accountability report;

(See. 105(d) (1); 20 U.S.C. 2306.)

(c) Evaluate vocational education programs (including programs to overcome sex bias), services, and activities under the annual program plan, and publish and distribute the results thereof;

(See. 105(d) (2); 20 U.S.C. 2306.)

(d) Assist the State board in developing plans for State board evaluations under the authority of § 104.401 and monitor these evaluations;

(See. 112(b) (2); 20 U.S.C. 2312.)

(e) Prepare and submit through the State board to the Commissioner and to the National Advisory Council an annual evaluation report, accompanied by any additional comments of the State board as the State board deems appropriate;

(See. 105(d) (3); 20 U.S.C. 2305.)

(f) Identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting these needs;

(Interprets Sec. 105(d) (4) (A); 20 U.S.C. 2305.)

(g) Comment, at least annually, on the reports of the State Manpower Services Council;

(See. 105(d) (4) (B); 20 U.S.C. 2305.)

(h) Prepare and submit to the Commissioner within 60 calendar days after the Commissioner's acceptance of certification of establishment and membership, submitted pursuant to § 104.01(c), an annual budget covering the proposed...
expenditures of the State advisory council for the following fiscal year; and
(Implements Sec. 105(f); 20 U.S.C. 2305.)

(i) Provide technical assistance to eligible recipients and local advisory councils as may be requested by the recipients to establish and operate local advisory councils.
(Implements Sec. 105(g); 20 U.S.C. 2305.)

§ 104.94 Meetings and rules.

The State advisory council shall meet within 30 calendar days after certification has been accepted by the Commissioner and shall select from among its membership a chairperson, vice chairperson, and secretary. The council for carrying out its function exclusively shall be as provided by the rules of the State advisory council. The rules shall provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.
(Implements sec. 105(e); 20 U.S.C. 2305.)

§ 104.95 Staff and services.

(a) The State advisory council is authorized:
(1) To obtain the services of professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions described in § 104.93. Such personnel shall be subject only to the supervision and direction of the State advisory council with respect to all services performed by them.
(2) To contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.
(Implements sec. 105(e); 20 U.S.C. 2305.)

(b) Members of the State advisory council and its staff, while serving on the business of the council, may receive subsistence, travel allowances, and compensation in accordance with State law, regulations, and practices applicable to persons performing comparable duties and services.
(Implements Sec. 105(e); 20 U.S.C. 2305.)

§ 104.96 Fiscal control.

(a) The State advisory council shall designate an appropriate State agency or other public agency, eligible to receive funds under the Act, to act as its fiscal agent for purposes of disbursement and accounting and for having its accounts audited at least every two years. The fiscal agent shall send a copy of the audit report to the Commissioner.
(Implements Sec. 105(f)(3); 20 U.S.C. 2305.)

(b) The expenditure of council funds is determined solely by the State advisory council for carrying out its function except as provided in § 104.95(b). Council funds may not be diverted or reprogrammed for any other purpose by any State board, agency, or individual.
(Implements Sec. 105(g); 20 U.S.C. 2305.)

RULES AND REGULATIONS

§ 104.97 Annual evaluation report.

The State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council on Vocational Education, through the State board, within 90 days after the end of the fiscal year an annual evaluation report under the authority of § 104.93(e).
(45 CFR 10b.403.)

§ 104.112 Duties of local advisory councils.

(a) The local advisory council shall advise the eligible recipient on:
(1) Current job needs; and
(2) The relevance of programs (courses) being offered by the local educational agency or postsecondary educational agency in meeting current job needs.
(Implements Sec. 105(g)(1); 20 U.S.C. 2305.)

(b) The local advisory council shall consult with the eligible recipient in developing its application to the State board.
(Implements sec. 105(a)(4)(A); 20 U.S.C. 2306.)

VOCATIONAL EDUCATION INFORMATION DATA SYSTEM

§ 104.116 Vocational education data system.

(a) The Commissioner and the Administrator of NCES will jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system.

(b) This system will include information resulting from the evaluations under section 112(b) of the Act (§§ 104.402 and 104.404) and other information on vocational:
(1) Students (including information on their race and sex);
(2) Programs;
(3) Program completers and leavers;
(4) Staff;
(5) Facilities; and
(6) Expenditures.

(c) This system will be compatible with other systems developed under section 161(b) of the Act by the National-Occupational Information Coordinating Committee and with other information on vocational:
(1) Students (including information on their race and sex);
(2) Programs;
(3) Program completers and leavers;
(4) Staff;
(5) Facilities; and
(6) Expenditures.
§ 104.121 Establishment of National Occupational Information Coordinating Committee.


(See 161(b); 20 U.S.C. 2391(b).)

§ 104.122 Requirement to establish State occupational information coordinating committee.

(a) Each State receiving assistance under the Act is required by section 161(b) of the Act to establish a State occupational information coordinating committee by September 30, 1977.

(Implements Sec. 161(b) (2); 20 U.S.C. 2391.)

(b) The State occupational information coordinating committee shall be composed of a representative of each of the following:

(1) The State board;

(2) The State employment security agency;

(3) The State Manpower Services Council; and

(4) The agency administering the vocational rehabilitation program.

(See 161(b)); 20 U.S.C. 2391.)

(c) The representatives shall be selected by the respective State board, agency, or council.

(Implements Sec. 161(b) (2); 20 U.S.C. 2391.)

§ 104.123 Duties of the State occupational information coordinating committee.

(a) The State occupational information coordinating committee, with funds available to it from the National Occupational Information Coordinating Committee, shall implement an occupational information system in the State which will meet the common needs for the planning for, and operation of, programs of the State board assisted under this Act and of the administering agencies under the Comprehensive Employment Training Act.

(See 161(b) (2); 20 U.S.C. 2391.)

(b) A State occupational information coordinating committee shall use funds received from the National Occupational Information Coordinating Committee in accordance with guidance, direction or standards adopted by the National Occupational Information Coordinating Committee.


(a) In order to participate in programs authorized under the Act, the State board for vocational education must submit to, and maintain on file with, the Commissioner a general application.

(See 106(a); 20 U.S.C. 2306.)

(b) This general application must be signed by the executive officer of the State board and submitted by the State board to the Commissioner by July 1, 1977, for eligibility for Federal funds under the Act.

(c) This general application is filed only once with the Commissioner and shall remain in effect until the provisions of section 106 of the Act are changed or expire.

(Implements Sec. 161(a) (4); 20 U.S.C. 2306; Sen. Rept. No. 94-822, pp. 68-72.)

(d) This general application is in lieu of the general application required by section 163(b) of the General Education Provisions Act.

(Implements Sec. 161(b); 20 U.S.C. 2306.)

(e) The procedures to be used by the State board to carry out assurances 4, 5, 8, and 10 in the general application shall be included in the five-year State plan (§ 104.102). (Implements Sec. 161(a) (9); 20 U.S.C. 2306.)

(f) This general application shall contain the following 12 assurances, of these, ten are set forth in section 106(a) of the Act:

(1) That the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act.

(Implements Sec. 161(b) (2); 20 U.S.C. 2391.)

(b) That the State board will cooperate with the State advisory council on vocational education in carrying out its duties pursuant to section 105 and with the agencies, councils, and individuals specified in sections 107 and 108 to be involved in the formulation of the five-year State plan and of the annual program plans and accountability reports.

(Implements Sec. 161(a) (1); 20 U.S.C. 2306.)

(c) That the State will cooperate with the State advisory council and other agencies, councils, and individuals on the basis of annual policies and procedures established by the General Education Provisions Act.

(d) The State shall use as the two most important factors in determining this distribution of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution on economic, social and demographic factors relating to the needs for vocational education among the various populations and the various areas of the State, except that—

(i) The State will use as the two most important factors in determining this distribution of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution on economic, social and demographic factors relating to the needs for vocational education among the various populations and the various areas of the State, except that—

(ii) The State will allocate such funds among eligible recipients within the State on the basis of per capita enrollment or through matching of local expenditures on uniform percentage basis, or deny funds to any recipient which makes a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs; and

(iii) Such funds may be used by the State to provide funds to any recipient which makes a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs.

(e) That Federal funds made available under this Act will be so used as to supplement, and to the extent practicable, to increase the amount of State and local funds that would be in the absence of such Federal funds made available for the uses specified in this Act, and in no case supplant such State or local funds.

(f) That the State will make provision for such fiscal control and fund accounting procedures as may be necessary to secure proper disbursement of, and accounting for, Federal funds so used as to supplement, and to the extent practicable, to increase the amount of State and local funds that would be in the absence of such Federal funds made available for the uses specified in this Act, and in no case supplant such State or local funds.
funds paid to the State (including such funds paid by the State to eligible recipients under this Act).

(8) that funds received under this Act will not be used for any program of vocational education except personnel training programs under section 135, renovation programs under subpart 4 of part B, and home-making programs under subpart 5 of this part which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

(9) that the State has instituted policies and procedures to ensure that copies of the State plan and annual program plan and accountability report and all statements of general policies, rules, regulations, and procedures issued by the State board and by any State agencies to which any responsibility is delegated by the State board concerning the administration of such plan and report will be made reasonably available to the public;

(10) that the funds used for purposes of section 110(a) are consistent with the State plan submitted pursuant to section 612(a) of the Education of the Handicapped Act.

(Sec. 106(a); 20 U.S.C. 2306.)

(11) The State board shall also assure that it will cooperate with the Administrator of the National Center for Education Statistics, HEW, in supplying information and complying in its reports with the information elements and definition requirements, as specified in section 161(a) of the Act.

(Implements Sec. 161(a); 20 U.S.C. 2301.)

(12) The State board shall also assure that students served by Indian tribal organizations applying for or receiving funds under the Commissioner's discretionary programs, under authority of section 103(a) (1) (B) of the Act, shall be afforded the opportunity to participate in vocational education programs administered by the State.

(Implements Sec. 103(a) (1) (B); 20 U.S.C. 2303.)

DEVELOPMENT OF FIVE-YEAR STATE PLAN

§ 104.161 Submission of five-year State plan.

Any State desiring to receive funds under the Act shall submit to the Commissioner a five-year State plan by:

(a) July 1, 1977, for fiscal years 1978 through 1982; and

(b) July 1, 1982, for fiscal years 1983 through 1987.

(Sec. 107(a) (1); 20 U.S.C. 2307)

§ 104.162 Representation required in the development of the five-year State plan.

In formulating its five-year State plan, the State board is required to involve the active participation of a representative of:

(a) The State agency having responsibility for secondary vocational education programs, designated by that agency;

(b) The State agency, if a separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

(c) The State agency, if a separate agency exists, having responsibility for community and junior colleges, designated by that agency;

(d) The State agency, if a separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

(Sec. 107(a) (1); 20 U.S.C. 2307)

(a) A local school board or committee, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a) (1) (E); 20 U.S.C. 2307)

(f) Vocational education teachers, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a) (1) (F); 20 U.S.C. 2307)

(g) Local school administrators, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a) (1) (G); 20 U.S.C. 2307)

(h) The State Manpower Services Council appointed under the authority of section 107(a) (2) (A) of the Comprehensive Employment and Training Act of 1973, designated by that Council;

(I) The State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private nonprofit, and proprietary institutions, and includes occupational programs at a less-than-baccalaureate degree level, if a separate agency or commission exists, designated by that agency or commission; and

(j) The State advisory council on vocational education, designated by that council.

(Sec. 107(a) (1); 20 U.S.C. 2307)

§ 104.163 Meetings of participating representatives.

The State board shall convene, as a group, the representatives of the agencies, councils, and individuals specified in § 104.162 for at least four meetings during the development of the five-year State plan. These meetings will be convened to accomplish the following purposes:

(a) First meeting: To plan for the development of the first draft of the five-year State plan;

(b) Second meeting: To consider the first draft of the five-year State plan;

(c) Third meeting: To consider the draft of the five-year State plan after it has been rewritten to reflect the results of the second meeting of the planning group; and

(d) Fourth meeting: To recommend for adoption the final five-year State plan.

(Sec. 107(a) (1); 20 U.S.C. 2307)

§ 104.164 State board adoption of the five-year State plan.

(a) If the participating agencies, councils, and individuals are not able to agree upon the provisions of the five-year State plan, the State board will make a final decision.

(b) In accordance with § 104.171(b) (1), the State board shall include in the five-year State plan:

(1) Any recommendation which is rejected by the State board indicating its source (i.e., the name of the individual and agency or council affiliation); and

(2) The reasons of the State board for rejecting the recommendation.

(See. 107(a) (1); 20 U.S.C. 2307)

§ 104.165 Public hearings on the five-year State plan.

(a) In formulating the five-year State plan, the State board is required to conduct a series of public hearings. This series of public hearings shall be conducted:

(1) During the development, prior State plan;

(2) After giving sufficient public notice; and

(3) Throughout all regions of the State.

(b) The purpose of these public hearings is to provide the opportunity for all segments of the population of the State to give their views on:

(1) The goals which ought to be adopted in the State plan;

(2) The programs to be offered under the State plan;

(3) The allocation of responsibility for programs (courses) among the various levels of education and among the various institutions of the State; and

(4) The allocation of local, State, and Federal resources to meet these goals.

(c) In accordance with § 104.171(d), the State board shall include in the five-year State plan:

(1) The views expressed at the public hearing or comments submitted in writing;

(2) A description of how these views are reflected in the provisions of the five-year State plan; and

(3) The reasons for rejecting any view which is not accepted for inclusion in the five-year State plan.

(Sec. 107(a) (2); 20 U.S.C. 2307)

§ 104.171 Certification of plans.

As used in this section, the term "plans" refers to the five-year State plan and the annual program plan and accountability report. The plans submitted shall include, as attachments, the following certifications:

(a) Certification by the State attorney general. The State attorney general, or other official designated in accordance with State law to advise the State board, on legal matters, shall certify that the State board named in the plan is the sole agency which has authority under State law to submit the plan and to administer or supervise the administra-
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(Implements Sec. 104(a) (1); 20 U.S.C. 2304.)

(b) Certification of involvement of designated agencies.

(1) The State board shall certify that each of the agencies, councils, and individuals required in § 104.162 has been afforded the opportunity to be involved. The State board shall include in this certification all recommendations rejected by the Board, complete identification of the agency, council, or individual having made the rejected recommendations and the reasons for rejecting these recommendations as required by § 104.164(b). This certification shall also indicate the meetings held under the authority of § 104.163.

(2) Each representative required in § 104.162 shall certify that he or she has had the opportunity to participate actively in formulating the plan.

(Implements Secs. 104(a) (9), 107(a) (1); 20 U.S.C. 2304, 2307.)

(c) Certification of delegation. The State board shall certify any delegation by the State to such agencies, councils, and individuals involved in administration, operation, or supervision of vocational education programs to other appropriate State agencies. The statement shall set forth the procedures used for delegation, the specific responsibilities delegated, and the specific agencies or agencies involved.

(Implements Sec. 104(a) (2); 20 U.S.C. 2304.)

(d) Certification of public hearings. The State board shall certify the method used to ensure reasonable notice and opportunity for public hearings throughout all regions of the State in order to permit all segments of the population to give their views on the goals for vocational educational which ought to be adopted in the plan in terms of the elements listed in §§ 104.163(b) and 104.207(b). The statement shall also include the views expressed at the hearings and a description of how these views were reflected in the plan. If any views are not reflected, the statement shall set out the reasons for rejecting them.

(Implements Sec. 107(a) (2), 108(a) (2); 20 U.S.C. 2307, 2308.)

(e) Certification of local advisory councils. The State board shall certify that eligible recipients within the State have been notified of their responsibility to establish local advisory councils. The State board shall also certify that eligible recipients receiving assistance under the Act to operate vocational education programs have established these councils.

(Implements Sec. 105(g); 20 U.S.C. 2308.)

(f) Certification of consultation with State advisory council. The State advisory council shall certify that the plan was prepared in consultation with the council.

(Implements Sec. 105(d); 20 U.S.C. 2308.)

(g) Certification by full-time personnel of opportunity to review the plans.

The personnel assigned full time to review programs within the State to assure equal access to vocational education by both men and women shall certify that the opportunity to review the plan has been afforded.

(Implements Sec. 109(a) (8); 20 U.S.C. 2309.)

(h) Certification of adoption by State board. The State board shall certify that development of the plan has been coordinated with the agencies, councils, and individuals as required by § 104.162 and that the final decision has been adopted by the State board, and that the plan constitutes the basis for operation and administration of the State's vocational education program.

(Implements Sec. 104(a) (1); 20 U.S.C. 2304.)

§ 104.181 Content of five-year State plan.

The State board shall submit the five-year State plan to the Commissioner, through the appropriate HSW Regional Office, by the July 1st preceding the beginning of the first fiscal year for which the plan is to take effect. The plan shall be composed of the following two parts:

(a) Procedures for carrying out certain assurances of the general application as required in § 104.182; and

(b) Program provisions as required in §§ 104.183 through 104.186.

(107(b); 20 U.S.C. 2307.)

§ 104.182 Procedures to assure compliance with the general application.

The State board in its five-year State plan shall:

(a) Describe the information which the State board will require in local applications in order to meet the requirements of § 104.141(d) (4);

(Implements Sec. 108(a) (4); 20 U.S.C. 2306.)

(b) Describe the procedures for affording eligible recipients reasonable notice of an opportunity for a hearing, for conducting the hearing, for providing a written record of the hearing, and for informing the recipient in writing of the decisions and reasons therefor;

(Implements Sec. 109(a) (4); 20 U.S.C. 2306.)

(c) Describe how the State board, for purposes of giving priority to applications, determines:

(1) Economically depressed areas and areas with high rates of unemployment which are unable to provide the resources necessary to meet the vocational education needs without Federal assistance; and

(2) Programs new to the area which are designed to meet new and emerging manpower needs and job opportunities in the area (and, where relevant, in the State and Nation);

(Implements Sec. 109(a) (6) (A); 20 U.S.C. 2306.)

(d) Describe the policies and procedures by which the State board determines how the amount of funds available under this Act will be made available to those applicants approved for funding, using the factors specified in § 104.141(f) (5) (B);

(Implements Sec. 106(a) (8) (B); 20 U.S.C. 2306.)

(e) Set forth the policies and procedures instituted for public disclosure in accordance with § 104.141(f) (9); and

(Implements Sec. 106(a) (9); 20 U.S.C. 2306.)

(f) Describe the procedures for insuring that funds for vocational programs for handicapped persons are used in a manner consistent with § 104.141(c) (10). The statement shall describe how the program provided each handicapped child will be planned and coordinated in conformity with and as a part of the child's individualized educational program as required by the Education of the Handicapped Act.

(Implements Sec. 108(a) (10); 20 U.S.C. 2305.)

§ 104.183 Assessment of employment opportunities.

(a) The five-year State plan shall include an assessment of current and future needs for workers identified in § 104.183 by the end of the five-year period covered by the five-year State plan. This description shall be in terms of the following four elements and shall include the reasons for choosing these elements:

(a) The programs (courses) and other training opportunities to be offered to meet the needs identified in § 104.183; (b) the purposes of the plan; (c) the term "program" refers to OB instructional programs, as defined by the Office of Education in Handbook VI, Standard Terminology for Curriculum and Instruction in Local and State School Systems (1970), and means a planned sequence of courses, services, or activities designed to meet an occupational objective;

(b) The projected enrollments of these programs and training opportunities;

(2) The allocations of responsibility for the offerings of these programs and training opportunities among the secondary, postsecondary, and adult levels of education and among the various types of institutions of the State; and

(d) The allocations of all local, State, and Federal financial resources available in the State for the programs and training opportunities among the secondary, postsecondary, and adult levels of education and among the various types of institutions of the State.
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§ 104.185 Funding to meet employment needs.

(a) The five-year State plan shall set forth precisely the planned uses of Federal, State, and local education funds for each fiscal year of the State plan;
(b) The five-year State plan shall indicate how the allocation of funds will meet the goals identified in § 104.184;
(c) The description of the planned uses of funds shall be in terms of the four elements of § 104.184 (this does not require duplication of § 104.184(d));
(d) The five-year State plan shall indicate the planned uses of funds under section 120(b) (1) (o) and section 130(b) (7) of this Act for:
   (1) State administration;
   (2) Local administration; and
(Implement Sec. 107(b) (3); 20 U.S.C. 2307.)

§ 104.186 Funding to meet program purpose needs.

(a) The five-year State plan shall set forth precisely the intended uses of funds under the Act for:
   (1) Basic grant programs in § 104.501;
   (2) Program improvement and supportive services in § 104.701;
   (3) Special programs for the disadvantaged in § 104.601 (funded under section 102(b) of the Act); and
   (4) Consumer and homemaking education in § 104.301 (funded under section 102(c) of the Act);
(b) The five-year State plan shall set out the reasons for choosing the uses described in paragraph (a) of this section:
   (c) The five-year State plan shall set forth precisely the intended uses of Federal funds, in accordance with the minimum percentages in §§ 104.312 and 104.313 to meet the special needs of:
      (1) Handicapped persons;
      (2) Disadvantaged persons; and
      (3) Persons of limited English-speaking ability.
(d) The five-year State plan shall also set forth the intended allocation of State and local funds, in accordance with the matching requirements in § 104.303, to meet the special needs of:
      (1) Handicapped persons;
      (2) Disadvantaged persons; and
      (3) Persons of limited English-speaking ability.
(Implements secs. 107(b) (3) (B), 110(a), (b); 20 U.S.C. 2307, 2310.)

§ 104.187 Policies for eradicating sex discrimination.

(a) The five-year State plan shall set forth a detailed description of polices and procedures which the State will follow to assure equal access to vocational education programs by both women and men.
(b) This description shall include:
   (1) Actions to be taken to overcome sex discrimination and sex stereotyping in all State and local vocational education programs;
   (2) Incentive adopted by the State for eligible recipients to:
      (i) Encourage the enrollment of both women and men in nontraditional courses of study; and
      (ii) Develop model programs to reduce sex bias and sex stereotyping in training for and placement in all occupations.
(c) The five-year State plan shall set forth a program to assess and meet the needs of persons described in § 104.621. This program shall include:
   (1) Special courses for these persons to learn how to seek employment; and
   (2) Placement services for these persons once they complete the vocational education program.
(Implement Sec. 107(b) (4); 20 U.S.C. 2307.)

§ 104.188 Coordination between manpower training programs and vocational education programs.

The five-year State plan shall describe the mechanism established for coordinating vocational education programs with manpower training programs conducted by prime sponsors under the Comprehensive Employment and Training Act (CETA), Pub. L. 93-383, and vocational education programs assisted under this Act. This description shall include the criteria developed to avoid duplication of programs under this Act and CETA.
(Implement Sec. 107(b) (5); 20 U.S.C. 2307; Sen. Rept. 94-856; p. 63.)

DEVELOPMENT OF ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.202 Due date of annual program plan.

For each fiscal year, the annual program plan is due by the July 1st preceding the beginning of the applicable fiscal year. For example, the first annual program plan is required for fiscal year 1978 and is due in the appropriate HEW Regional Office by July 1, 1977.
(Implement Sec. 108(b); 20 U.S.C. 2308.)

§ 104.203 Due date of annual accountability report.

For each fiscal year, the annual accountability report is due by the July 1st following the completion of the applicable fiscal year. For example, the first annual accountability report is required for fiscal year 1978 and is due in the appropriate HEW Regional Office by July 1, 1979.
(Implement Sec. 108(b); 20 U.S.C. 2308.)

§ 104.204 Representation required in the development of the annual program plan and accountability report.

In formulating the annual program plan and accountability report for any given fiscal year, the State board is required to involve the active participation of a representative of each group set forth in § 104.162 (a) through (j).
(Implements 107(a) (4), 108(a) (1); 20 U.S.C. 2307, 2308.)

§ 104.205 Meetings of participating representatives.

The State board shall convene, as a group, the representatives of the agencies, councils, and individuals specified in § 104.204 for at least three meetings during each fiscal year. These meetings will be convened to accomplish the following purposes:
(a) First meeting: To plan for the development of the first draft of the annual program plan and accountability report;
(b) Second meeting: To consider the draft of the annual program plan and accountability report;
(c) Third meeting: To recommend for adoption the final annual program plan and accountability report.
(Implement Sec. 108(a) (1); 20 U.S.C. 2308.)

§ 104.206 State board adoption of the annual program plan and accountability report.

(a) If the participating agencies, councils, and individuals are not able to agree upon the provisions of the annual program plan or the accountability report, the State board will make a final decision;
(b) The State board shall include in the annual program plan or, as appropriate, in the accountability report:
   (1) Any recommendation which is rejected by the State board indicating its sources (including the name of the individual or agency or council affiliation); and
   (2) The reasons of the State board for rejecting the recommendation.
(Implement Sec. 108(a) (1); 20 U.S.C. 2308.)

§ 104.207 Public hearing on the annual program plan and accountability report.

(a) In formulating the annual program plan and accountability report, the State board is required to conduct a public hearing. This public hearing shall be conducted:
   (1) During the development, prior to adoption of the annual program plan and accountability report; and
   (2) After giving sufficient public notice.
(b) The purpose of this public hearing is to provide an opportunity for all segments of the population of the State to give their views on:
   (1) The goals which ought to be adopted in the annual program plan; and
   (2) The programs to be offered under the annual program plan;
(3) The allocation of responsibility for programs among the various levels of education and among the various institutions of the State; and
(4) The allocation of local, State, and Federal resources to meet these goals.

(Interprets Sec. 108(a) (2); 20 U.S.C. 2308.)

(c) The State board shall include in the annual program plan or, as appropriate, in the accountability report:
(1) The views expressed at the public hearing or comments submitted in writing;
(2) A description of how these views are reflected in the provisions of the annual program plan or the accountability report; and
(3) The reasons for rejecting any view which is not accepted for inclusion in the annual program plan or accountability report.

(Sec. 108(a) (3); 20 U.S.C. 2308.)

§ 104.221 Content of annual program plan for fiscal year 1978.

A five-year State plan which includes the program provisions in §§ 104.183 through 104.186 on a year-by-year basis will meet the requirements of the Act for the annual program plan, except that in addition to the planned uses of funds in § 104.186, the plan shall also set out precisely the proposed distribution of such funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the assurance given in the general application and in accordance with the policies and procedures in § 104.182(d).

(Interprets 108(b) (1); 20 U.S.C. 2308.)

§ 104.222 Content of annual program plans for the fiscal years following 1978.

The plan shall contain:
(a) Any updating of the five-year State plan, as submitted under §§ 104.183 and 104.184, considered necessary to reflect later or more accurate employment data or a different level of funding than was anticipated;
(b) A description of how the uses of funds proposed for the fiscal year in § 104.185 will be compiled with or changed (in light of anticipated appropriations) and the reasons for the changes;
(c) A description of how the uses of funds under the Act proposed for the fiscal year in § 104.186 will be compiled with or changed (in light of anticipated appropriations) and the reasons for the changes;
(d) A description of how funds used in (b) and (c) will comply with the minimum percentages, matching, and maintenance of effort requirements in § 104.301;
(e) The additional provisions set forth in § 104.221;
(f) The results of:
(1) Coordination of programs funded under this Act and manpower training programs;
(2) Compliance of the State plan with the provisions contained in § 104.187 concerning providing equal access to programs by both men and women; and
(3) Participation of local advisory councils required to be established under § 104.171(e).

(Interprets Sec. 108(b) (1); 20 U.S.C. 2308.)

§ 104.241 Content of the accountability report.

(a) The accountability report shall:
(1) Show the extent to which the State, during the fiscal year preceding the submission of the report, has achieved the goals of the approved five-year State plan, including a description in terms of the elements in § 104.184;
(2) Show the degree to which proposed uses of Federal, State, and local funds in § 104.222(b) have been complied with, including a description in terms of the elements in § 104.185;
(3) Show in detail how the funds used in § 104.222(d) complied with the minimum percentage, matching, and maintenance of effort requirements in § 104.301;
(Interprets Sec. 108(b) (3) (A).)

(b) Show in detail how funds under the Act allocated for programs in § 104.186 have been used during the fiscal year, including:
(i) A description of uses of funds as set out in § 104.222(c);
(ii) A description of the distribution of funds available for these sections among local educational agencies and other eligible recipients in conformity with § 104.222(e); and
(iii) The results achieved by the uses of these funds.

(Sec. 108(b) (2) (B); 20 U.S.C. 2308.)

§ 104.261 Conditions for approval of five-year State plan.

The Commissioner will not approve a five-year State plan until the Commissioner:
(a) Makes specific findings in writing as to the compliance of the annual program plan and accountability report with the provisions of the Act and applicable regulations;
(b) Makes a determination that adequate procedures are set forth to insure that the assurances of the general application will be carried out;
(c) Makes a determination that adequate procedures are set forth in the annual program plan and accountability report to insure that the provisions of the plan will be carried out;
(d) Makes a determination that the annual program plan and accountability report show progress in achieving the goals set forth in the approved five-year State plan;

(Sec. 108(a) (3); 20 U.S.C. 2308.)

(e) Has received assurances that the full-time personnel assigned to review programs within the State to assure equal access by both men and women have been afforded the opportunity to review the annual program plan and accountability report;

(Sec. 108(a) (3) (B); 20 U.S.C. 2308.)

§ 104.263 Notice of approval or disapproval.

After reviewing the five-year State plan, the annual program plan, and the accountability report, the Commissioner will notify the State board, in writing, of the granting or withholding of approval.

(Sec. 109 (a), (b); 20 U.S.C. 2308.)

§ 104.271 Disapproval of plan.

The Commissioner will not finally disapprove a State plan without first affording the State
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board reasonable notice and opportunity for a hearing;

(Rev. 106(b) (1); 20 U.S.C. 2309.)

(b) Will not disapprove a State plan solely on the basis of the distribution of State and local expenditures for educational programs.

(Rev. 106(b) (2); 20 U.S.C. 2309.)

(c) Will give at least fifteen (15) work days written notice of the disapproval of a plan or disapproval of the method by which the State is administering the plan;

(Implements Sec. 109(c); 20 U.S.C. 2309.)

(d) Will hold the hearing within the State.

(Rev. 109(b) (1); 20 U.S.C. 2309.)

§ 104.281 Opportunity for a hearing.

(a) Sections 107 and 108 of the Act require the Commissioner to provide an opportunity for a hearing to certain agencies and councils which may be dissatisfied with any final decision of the State board with respect to the proposed five-year State plan or the annual program plan filed with the Commissioner.

(b) The agencies and councils that may request a hearing are those agencies and councils set forth in § 104.162 (a) through (d) and (b) through (f). A representative of an agency or council may not request a hearing in his or her individual capacity.

(Rev. 107(a), 108(a); 20 U.S.C. 2307; 2308.)

(c) An agency or council may appeal to the Commissioner only:

(1) Matters which the agency or council has recommended to the State board for inclusion in the five-year State plan or annual program plan which the State board has not accepted (§ 104.166); or

(2) The State board's failure to follow the section 107 and section 108 process as to that agency or council.

(Implements Sec. 107(a), 108(a); 20 U.S.C. 2307; 2308.)

§ 104.282 Appeal to the Commissioner.

(a) If a hearing is to be requested, the notice of appeal shall be in writing, addressed to the Commissioner and to the State board, and mailed by registered mail no later than fifteen (15) work days after the notification in writing has been received by the agency or council that the recommendations of the agency or council have been disapproved by the State board.

(b) Pending resolution of the matter for which a hearing has been requested, the five-year State plan or annual program plan submitted by the State board or, if in substantially approvable form, may be conditionally approved by the Commissioner and may be conditionally deemed the operative plan.

(Implements Secs. 107(a), 108(a); 20 U.S.C. 2307, 2308.)

§ 104.283 Hearing.

(a) The Commissioner may delegate authority to an employee of the Office of Education to be the hearing officer. The hearing officer shall take testimony, consider the arguments of the parties, make findings of fact, make conclusions of law, and make recommendations to the Commissioner.

(b) The hearing officer shall give each party at least fifteen (15) work days notice of the time, place, and purpose of the hearing.

(c) The fifteen (15) work days notice of time and place of the hearing may be reduced or waived if all parties agree.

(d) The hearing may take place in Washington, D.C., or within the State, whose agency or council is appealing, at the option of the requesting party and with the hearing officer's approval.

(e) The hearing officer may adjourn the hearing to a more satisfactory time or place on the motion of the hearing officer or on motion of a party.

(f) A record shall be kept of the hearing. The record may be made by shorthand, stenotype, or mechanical or electrical means, and shall be transcribed.

(Implements Sec. 107(a) (1); 20 U.S.C. 2307.)

§ 104.284 Prehearing.

(a) The hearing officer may require a prehearing conference.

(b) The prehearing conference shall be conducted in an informal manner for the purpose of:

(1) Simplification of the issue;

(2) Exchange of documents;

(3) Stipulation of facts;

(4) Deciding on procedures at the hearing; and

(5) Such other matters as may properly be dealt with to aid in expediting the orderly conduct or disposition of the hearing.

(Implements Sec. 107(a) (1); 20 U.S.C. 2307.)

§ 104.285 Right to counsel, witnesses, cross examination.

(a) The parties shall have the right to counsel.

(b) The parties may offer evidence by witnesses appearing in person.

(c) Where a witness appears in person, the other party shall have the right to cross examine the witness.

(d) If a witness is unable to appear in person, documentary evidence or affidavits may be accepted in lieu of personal appearance. Affidavits shall be given only the probative value of a sworn statement which has not been subjected to cross examination.

(Implements Sec. 107(a) (1); 20 U.S.C. 2307.)

§ 104.286 Evidence and standard of evidence.

(a) Formal rules of evidence do not apply. The hearing officer shall restrict the admission of evidence to that which is material and relevant.

(b) The hearing officer may request additional evidence.

(c) Findings of fact shall be supported by substantial evidence. "Substantial evidence" for the purpose of this hearing, means such relevant evidence as a reasonable mind might accept to support a conclusion. (355 U.S. 197, 229 (1938).)

(Implements Sec. 107(a) (1); 20 U.S.C. 2307.)

§ 104.287 Determinations to be made by the hearing officer.

(a) The hearing officer shall determine, with reference to the matters subject to appeal (§ 104.286(c)):

(1) Whether the procedural requirements of the Act have been fulfilled;

(2) Whether the decisions of the State board in the five-year State plan or the annual program plan are in accordance with the law;

(3) Whether the decisions of the State board in the five-year State plan or the annual program plan are based on substantial evidence; and

(4) Whether the State board's decisions in the five-year State plan or the annual program plan best carry out the purposes of the Act.

(Rev. 107(a) (1); 20 U.S.C. 2307.)

(b) Where the hearing officer decides that the State board has conformed with the provisions of paragraphs (a), (1), (2), and (3) of this section the hearing officer shall issue findings of fact to that effect.

(c) Where the hearing officer decides that the five-year State plan or the annual program plan will best carry out the purposes of the Act, the hearing officer shall recommend a finding for the State board.

(Implements Sec. 107(a) (1); 20 U.S.C. 2307.)

§ 104.288 Commissioner's decision.

(a) The findings of fact and recommendation of the hearing officer shall be conveyed to the parties and to the Commissioner.

(b) The finding and recommendations of the hearing officer shall become the findings and decision of the Commissioner unless the Commissioner reverses the hearing officer's findings or recommendation, in whole or in part, within fifteen (15) work days after the date the hearing officer conveys his or her findings and recommendation to the Commissioner.

(Implements Sec. 107(a) (1); 20 U.S.C. 2307.)

(c) The Commissioner may not unilaterally change a five-year State plan or annual program plan. The Commissioner shall approve a plan or disapprove a plan in its entirety and return it to the State board for revision.

(Implements Sec. 107(a) (1); 20 U.S.C. 2307; Conf. Rept. No. 94-1701, pp. 216, 217.)

§ 104.289 Appeal by State board, or agency to the court of appeals.

A State board, or agency dissatisfied with a final action of the Commissioner
under section 107(a)(1) of the Act may appeal to the United States court of appeals for the circuit in which the State is located in accordance with the procedure specified in section 434(d)(2) of GEPA.

(Implements Sec. 107(a)(1); 20 U.S.C. 1232c.)

SUSPENSION AND TERMINATION OF PAYMENTS FOR NONCOMPLIANCE

§ 104.291 Suspension and termination of payments for noncompliance.

Suspension and termination of payments for noncompliance shall be in accordance with section 434(c) of GEPA. Section 434(c) of GEPA reads as follows:

(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been failure, by any recipient of funds under any applicable program, to comply substantially with terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until such time as the Commissioner is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Failing the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(SEC. 109(f) (1); 20 U.S.C. 2309a, 1232c.)

APPEAL TO THE COURTS

§ 104.292 Appeal by State board on withholding of approval of State plan.

A State board which is dissatisfied with the final action of the Commissioner after an appeal to the Commissioner on withholding of approval of a State plan may appeal to the appropriate United States court of appeals as provided in section 109(d) of the Act.

(SEC. 109(d); 20 U.S.C. 2309a.)

§ 104.293 Appeal by eligible recipient to the court of appeals.

An eligible recipient dissatisfied with the final action of the State board (or other appropriate State administrative agency) with respect to approval of an application by such eligible recipient for a grant under this Act may appeal to the appropriate United States court of appeals as provided in section 109(c) of the Act.

(SEC. 109(c); 20 U.S.C. 2309a.)

FISCAL REQUIREMENTS

FEDERAL SHARE

§ 104.301 Application of Federal requirements.

(a) Federal vocational education funds shall be used only for the purposes of the Vocational Education Act and the regulations in this part. All expenditures of Federal funds are subject to the conditions and requirements of the Act and regulations.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

(b) Federal funds shall be used to share only in expenditures which are made in accordance with: (1) Assurances of the general application; (2) Five-year State plan; and (3) Annual program plan.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

(c) State and local funds which are applied to the matching requirements and maintenance of efforts requirements of the Act are subject to the conditions and requirements of the Act, regulations, and five-year State plan and annual program plan. This means that every program or activity supported in whole or in part by State or local funds which are to meet the same conditions and requirements as those supported by Federal funds.

(Interprets Sec. 111(a); 20 U.S.C. 2311; 20 U.S.C. 19.)

(d) Only actual expenditures of State and local funds as part of the State's matching and maintenance of effort requirements. This means that in-kind contributions shall not be used as part of the State's matching and maintenance of effort requirements. Requirements of 45 CFR 100.8(b) of GEPA shall not apply to this program.

(Interprets Sec. 111(a); 20 U.S.C. 2311, 20 U.S.C. 19.)

§ 104.302 Federal share of expenditures—annual program plan.

(a) The Commissioner will pay to each State from the funds available under section 102(a) an amount not to exceed 50 percent of the cost of carrying out its annual program plan.

(b) The State's matching share of expenditures under the annual program plan may be on a State-wide basis.

(c) Except for the fiscal requirements for the national priority programs described in § 104.303, State administration described in § 104.305, and local administration described in § 104.307, it is not necessary that Federal funds be matched by non-Federal funds for each purpose and program under the Act.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

§ 104.303 Federal share of expenditures—national priority programs.

(a) The Commissioner will pay to each State an amount not to exceed 50 percent of the excess cost (i.e., costs of special educational and related services above the costs for non-handicapped persons) of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for disadvantaged persons (other than handicapped persons);

(2) The excess cost (i.e., costs of special education and related services above the costs for persons who are not classified as persons of "limited English-speaking ability") of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for persons who have limited English-speaking ability; and

(3) Stipends for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs.

(c) The Commissioner will pay to each State an amount not to exceed 50 percent of the cost of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for:

(1) Postsecondary programs for: (i) Persons who have completed or left high school; (ii) who are enrolled in organized programs of study for which credit is given toward and associate or other degree; and (iii) who are enrolled in programs designed as baccalaureate or higher degree programs;

(2) Adult programs for: (i) Persons who have already entered the labor market; (ii) persons who are unemployed; or (iii) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree.

(SEc. 110; 20 U.S.C. 2310.)

§ 104.304 Allowable expenditures for vocational education for national priority programs.

A State shall use the funds allotted for national priority programs under section 110 of the Act only for expenditures which are specified in § 104.303.


§ 104.305 Federal share of expenditures—100 percent payments.

(a) The Commissioner will pay to each State an amount up to 100 percent of the cost of:

(1) Cooperative vocational education programs which include students enrolled in nonprofit private schools pursuant to section 123(c) of the Act;

(2) Exemplary and innovative programs which include students enrolled in nonprofit private schools pursuant to section 123(b) of the Act; and

(3) Special programs for disadvantaged persons in areas of the State which have high concentrations of youth unemployment or school dropouts under section 123(a) of the Act.

(b) The Commissioner will pay to the Trust Territory of the Pacific Islands, the Northern Mariana Islands, Guam,
§ 104.307 Federal share of expenditures—local administration.
(a) The Commissioner will pay, from the funds allotted pursuant to section 102(a) of the Act, a part of the costs of supervision and administration of vocational education programs carried out by an eligible recipient. The percentage of Federal funds used by an eligible recipient for the purpose of local administration shall be determined on the basis of the percentage of Federal funds used to support the vocational education program carried out by the eligible recipient.
(b) The eligible recipient shall use either the method set forth in subparagraph (1) or subparagraph (2) of this paragraph in determining the payment of local administrative costs.
(1) The percentage of Federal funds used by an eligible recipient for the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the total vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is $100,000 and the Federal contribution to this eligible recipient is $25,000, or 25 percent of the total. If local administrative costs are $10,000, then up to 25 percent of this amount, or $2,500, may be charged against the Federal funds.
(2) Up to 50 percent of the cost of supervision and administration of the vocational education program of the eligible recipient may be charged to the Federal funds. Provided, That State funds match the Federal funds dollar for dollar. State funds used to match Federal funds shall be specifically made available for the purpose of local administration. For example, if the total cost of local administration is $10,000, then up to $5,000 may be charged to the Federal funds as long as the State contributes the same amount from a specific State appropriation.
(c) The State shall use the following formula in determining the amount of Federal funds available for the costs of local supervision and administration:
(1) Not more than 80 percent of the total amount used for supervision and administration by eligible recipients shall be made from the basic grant in part 2.
(2) Not more than 20 percent of the total amount used for supervision and administration by eligible recipients shall be made from program improvement and supportive services in subpart 3.
(d) The computation in paragraph (c) of this section does not require the State to use administrative funds in an 80/20 ratio between part 2 and subpart 3 activities. The State may use its administrative funds in whatever distribution best meets its needs.
(Interprets Sec. 111(a)(2); 20 U.S.C. 2311.)

§ 104.310 Federal share of expenditures—State administration.
(a) The Commissioner will pay, from the funds allotted pursuant to section 102(a) of the Act, a part of the costs of supervision and administration of vocational education programs carried out by an eligible recipient.
(b) The eligible recipient shall use either the method set forth in subparagraph (1) or subparagraph (2) of this paragraph in determining the payment of local administrative costs.
(1) The percentage of Federal funds used by an eligible recipient for the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the total vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is $100,000 and the Federal contribution to this eligible recipient is $25,000, or 25 percent of the total. If local administrative costs are $10,000, then up to 25 percent of this amount, or $2,500, may be charged against the Federal funds.
(2) Up to 50 percent of the cost of supervision and administration of the vocational education program of the eligible recipient may be charged to the Federal funds. Provided, That State funds match the Federal funds dollar for dollar. State funds used to match Federal funds shall be specifically made available for the purpose of local administration. For example, if the total cost of local administration is $10,000, then up to $5,000 may be charged to the Federal funds as long as the State contributes the same amount from a specific State appropriation.
(c) The State shall use the following formula in determining the amount of Federal funds available for the costs of local supervision and administration:
(1) Not more than 80 percent of the total amount used for supervision and administration by eligible recipients shall be made from the basic grant in part 2.
(2) Not more than 20 percent of the total amount used for supervision and administration by eligible recipients shall be made from program improvement and supportive services in subpart 3.
(d) The computation in paragraph (c) of this section does not require the State to use administrative funds in an 80/20 ratio between part 2 and subpart 3 activities. The State may use its administrative funds in whatever distribution best meets its needs.
(Interprets Sec. 111(a)(2); 20 U.S.C. 2311.)

§ 104.311 Percentage requirements with respect to State distribution of Federal funds.
The minimum percentages set forth in §§ 104.312, 104.313, and 104.314 are applicable to each State's allotment under section 102(a) of the Act.
(Interprets Sec. 110(a); 20 U.S.C. 2310.)

§ 104.312 Minimum percentage for the handicapped.
The State shall expend at least 10 percent of the allotment under section 102(a) of the Act for vocational education for handicapped persons as described in § 104.303 (a). The State shall use these funds to the maximum extent possible to assist handicapped persons to participate in regular vocational education programs.
(Interprets Sec. 110(a); 20 U.S.C. 2310.)

§ 104.313 Minimum percentage for the disadvantaged.
(a) The State shall expend at least 20 percent of the section 102(a) allotment, subject to the conditions of paragraph (b), for the following purposes:
(1) Vocational education for disadvantaged persons (other than handicapped persons) as described in § 104.303 (b);
(2) Vocational education for persons who have limited English-speaking ability as described in § 104.303 (b) (2); and
(3) Stipends for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs.
(Interprets Sec. 110(b); 20 U.S.C. 2310.)

(b) The State shall use, to the maximum extent possible, the funds expended for disadvantaged persons and persons of limited English-speaking ability to enable these persons to participate in regular vocational education programs.
(Interprets Sec. 110(d); 20 U.S.C. 2310.)

(c) The State shall use the following formula in determining its expenditures of funds under paragraph (a) of this section for vocational education for persons who have limited English-speaking ability:
(1) First determine the amount of Federal funds reserved for the purposes of paragraph (a) of this section;
(2) Determine the population having limited English-speaking ability who are between the ages of 15 and 24 inclusively;
(3) Determine the total population of the State aged 15 to 24 inclusively;
(4) Divide step two by step three;
(5) Multiply the quotient from step four by the total amount reserved for paragraph (a) of this section as indicated in step one.
(6) Spend at least this amount for vocational education for persons having limited English-speaking ability. The amount expended for this purpose shall not exceed the total amount reserved for paragraph (a) of this section.

For example, a State reserves $500,000 for the purposes of paragraph (a) of this section. The State determines its limited English-speaking population between the ages of 15 and 24 is 10,000. The total population of the State aged 15 to 24 is 200,000. 10,000 is divided by 200,000 and the quotient is .05. $500,000 is multiplied by .05 and the product is $25,000. According
ingly, the State expends at least $25,000 for vocational education for persons who have limited-English speaking ability, but no more than $500,000.

(Implements Sec. 110(b) (2); 20 U.S.C. 2310.)

§ 104.314 Minimum percentage for postsecondary and adult.

The State shall expend at least 15 percent of the amount set forth in section 102(a) for vocational education for:

(a) "Postsecondary programs" for: (1) Persons who have completed or left high school; or (2) Persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree.

(b) Adult programs for: (1) Persons who have already entered the labor market; (2) Persons who are unemployed; or (3) Persons who have completed or left high school and who are enrolled in organized programs of study for which credit is not given toward an associate or other degree.

(Sec. 110(c); 20 U.S.C. 2310.)

§ 104.315 Expenditures for programs in secondary schools.

(a) The State shall expend from its allotment for the basic grant (subpart 2) approximately the same amount of Federal funds for programs in secondary schools during fiscal years 1976 and 1979 as it had expended during fiscal years 1975 and 1976.

(b) The State shall set forth in the five-year State plan its justification for the need to shift funds in the event the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to the State for vocational education.

(Sec. 110(b) (1); 20 U.S.C. 2311.)

§ 104.321 Maintenance of effort at the State level.

A State shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared to the amount expended in the previous year.

(Sec. 111(b) (1); 20 U.S.C. 2311.)

§ 104.322 Withholding of payments.

The Commissioner will not make any payments to a State in a fiscal year unless the Commissioner finds that the fiscal effort of the State for vocational education on a per student basis or on an aggregate basis in the previous fiscal year was not less than the fiscal effort of the State on a per student basis or on an aggregate basis in the preceding fiscal year.

(Sec. 111(b) (1); 20 U.S.C. 2311.)

§ 104.323 Five percent rule.

Total State fiscal effort for vocational education in the preceding fiscal year shall not be considered reduced from the fiscal year effort of the second preceding fiscal year unless the per student expenditure or aggregate expenditure in the preceding year is less than that in the second preceding fiscal year by more than five percent. For example, a State which expends an aggregate of $10 million for vocational education in one fiscal year and an aggregate of $5,000,000 in the second preceding fiscal year shall not be considered to have reduced fiscal effort for the purposes of the Vocational Education Act.

(Interprets Sec. 111(b) (1); 20 U.S.C. 2311.)

§ 104.324 Unusual circumstance rule.

Any reduction in fiscal effort for any fiscal year by more than five percent will disqualify the State from receiving Federal funds unless the State is able to demonstrate to the satisfaction of the Commissioner the following:

(a) In the preceding fiscal year, the reduction was occasioned by unusual circumstances that could not have been fully anticipated or reasonably compensated for by the State. Unusual circumstances may include unforeseen decreases in revenues due to the decline of the tax base;

(b) In the second preceding fiscal year, contributions of large sums of monies from outside sources were made;

(c) In the second preceding fiscal year, large amounts of funds were expended for long-term purposes such as construction and acquisition of school facilities or the acquisition of capital equipment.

(Interprets Sec. 111(b) (1); 20 U.S.C. 2311.)

§ 104.325 Maintenance of fiscal effort at the local level.

A local educational agency shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education and to improve the State's programs of vocational education.

(Interprets Sec. 110(b) (1); 20 U.S.C. 2311.)

§ 104.326 Withholding of payments.

A State shall not make any payment under this Act to a local educational agency unless the State finds that the combined fiscal effort of the State and local educational agencies on a per student basis or on an aggregate basis of the local educational agency and the State, was not less than the combined fiscal effort in the preceding fiscal year.

(Sec. 111(b) (1); 20 U.S.C. 2311.)

§ 104.327 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to postsecondary educational institutions.

(Interprets Sec. 111(b) (2); 20 U.S.C. 2311.)

§ 104.330 Exceptions.

The State evaluations are to be used to assist local educational agencies and other recipients of funds in operating the best possible programs of vocational education and to improve the State's programs of vocational education.

(Sec. 110(b) (1); 20 U.S.C. 2312.)

§ 104.402 Evaluation by State board.

The State board shall, during the five-year period of the State plan, evaluate the best possible programs of vocational education and to improve the State's programs of vocational education.

(Sec. 111(b) (1); 20 U.S.C. 2311.)

STATE EVALUATION

The results of additional services, other examinations of students' skills, knowledge, attitudes, and readiness for entering employment successfully.

(d) Results of student employment as measured, for example, by:

(1) Standard occupational proficiency measures;

(2) Criterion referenced tests; and

(3) Other examinations of students' skills, knowledge, attitudes, and readiness for entering employment successfully.

§ 104.328 Maintenance of fiscal effort by postsecondary educational institutions.

A postsecondary educational institution shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

(Sec. 111(b) (2); 20 U.S.C. 2311.)

§ 104.329 Withholding of payments.

A State shall not make any payment under this Act to a postsecondary educational institution unless the State finds that the fiscal effort on a per student basis or on an aggregate basis of that institution, with respect to the provision of vocational education, was not less than the fiscal effort of that institution in the second preceding fiscal year.

(Sec. 111(b) (2); 20 U.S.C. 2311.)

§ 104.330 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to postsecondary educational institutions.

(Interprets Sec. 111(b) (2); 20 U.S.C. 2311.)

STATE EVALUATION

The State board shall, during the five-year period of the State plan, evaluate the best possible programs of vocational education and to improve the State's programs of vocational education.

(Sec. 110(b) (1); 20 U.S.C. 2312.)

§ 104.402 Evaluation by State board.

The State board shall, during the five-year period of the State plan, evaluate the best possible programs of vocational education and to improve the State's programs of vocational education.

(Sec. 111(b) (1); 20 U.S.C. 2311.)

STATE EVALUATION

The results of additional services, other examinations of students' skills, knowledge, attitudes, and readiness for entering employment successfully.

(d) Results of student employment as measured, for example, by:

(1) Standard occupational proficiency measures;

(2) Criterion referenced tests; and

(3) Other examinations of students' skills, knowledge, attitudes, and readiness for entering employment successfully.

§ 104.328 Maintenance of fiscal effort by postsecondary educational institutions.

A postsecondary educational institution shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

(Sec. 111(b) (2); 20 U.S.C. 2311.)

§ 104.329 Withholding of payments.

A State shall not make any payment under this Act to a postsecondary educational institution unless the State finds that the fiscal effort on a per student basis or on an aggregate basis of that institution, with respect to the provision of vocational education, was not less than the fiscal effort of that institution in the second preceding fiscal year.

(Sec. 111(b) (2); 20 U.S.C. 2311.)

§ 104.330 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to postsecondary educational institutions.

(Interprets Sec. 111(b) (2); 20 U.S.C. 2311.)
der paragraphs (a), (b), and (c) of this section, that the State provides under the Act to these special populations:
1. Women;
2. Members of minority groups;
3. Handicapped persons;
4. Disadvantaged persons; and
5. Persons of limited English-speaking ability.

(Implements Secs. 112(b) (1); 20 U.S.C. 2312.)

§ 104.403 Use of results of evaluation.
(a) The results of the evaluation shall be used as a basis to revise and improve the programs conducted under the approved five-year State plan.
(b) The State board shall make the results of the evaluations readily available to the State advisory council on vocational education.

(Sec. 112(b) (1); 20 U.S.C. 2312.)

§ 104.404 Special data on completers and leavers.
(a) The State shall evaluate, using wherever possible statistically valid sampling techniques, the effectiveness of each program of vocational education which purports to teach entry-level job skills.
(b) The State shall evaluate each of these programs in order to ascertain the extent to which both those students who complete a program and those students who leave before completing a program:
1. Find employment in occupations related to their training; and
2. Are considered by their employers to be well-trained and prepared for employment.

(Sec. 112(b) (1); 20 U.S.C. 2312.)

(c) The State shall use the following definitions for “program completer” and “program leaver”:
(1) “Program completer” means a student who finishes a planned sequence of courses, services, or activities designed to meet an occupational objective and which purports to teach entry-level job skills; and
(2) “Program leaver” means a student who has been enrolled in and has attended a program of vocational education (which is part of a planned sequence of courses, services or activities designed to meet an occupational objective and which purports to teach entry-level job skills) and has left the program without completing it, except that no student shall be counted as a program leaver who is still enrolled in another program of vocational education. The term “program leaver” includes:
(i) Persons who leave the program voluntarily before its formal completion because they have acquired sufficient entry-level job skills to work in the field, and who have taken a job related to their field of training; and
(ii) All other leavers.

(d) For the purposes of this section, a State shall report separately on program completers and program leavers in accordance with the survey instructions and sampling standards to be provided by the National Center for Educational Statistics, HEW, as follows:
(1) Those who secure employment in the occupation for which they were trained or in occupations related to their vocational training, including the military;
(2) Those in paragraph (d) (1) of this section considered by their employers to be well-trained and prepared for employment; (Secs. 112(b) (1) (B), 161(a) (3) (B); 20 U.S.C. 2312, 2391.)
(3) Those who are enrolled for additional education and training; and
(4) Those in none of the above categories.

(Implements Secs. 112(b) (1) (B), 161(a) (3) (B); 20 U.S.C. 2312, 2391.)

(e) Persons who are enrolled for additional education and training shall not be counted as “leavers” in the evaluation data.

(Secs. 112(b) (1) (B), 161(a) (3) (B); 20 U.S.C. 2312, 2391.)

(f) The evaluation data on completers and leavers shall be collected at a date to be specified by the National Center for Educational Statistics, HEW.

(Implements Secs. 112(b) (1) (B), 161(a) (3) (B); 20 U.S.C. 2312, 2391.)

§ 104.405 Assurance of compatible data.
In order to assure that the data on program completers and leavers are compatible and can be aggregated and reported for all the States, each State shall utilize in its data collection and reporting the information elements and uniform definitions which are developed for the national vocational education data reporting and accounting system, as required by section 161 of the Act.

(Sec. 161(a) (3) (B); 20 U.S.C. 2391.)

Subpart 2—Basic Grant

GENERAL PURPOSES

§ 104.501 Authorization of grants.
A State shall use its basic grant, which is equal to 80 percent of the funds allocated pursuant to section 102(a) of the Act, for the purposes set forth in § 104.502.

(Secs. 103(a), 120(a); 20 U.S.C. 2203, 2330.)

§ 104.502 Use of funds under the basic grant.
(a) The State shall expend not less than $50,000 for each fiscal year from the funds available under the basic grant (section 120 of the Act) for the support of full-time personnel to perform the functions set forth in §§ 104.71 through 104.76.

(Sec. 104(b), 120(b) (1) (F); 20 U.S.C. 2203, 2330.)

(b) The State shall expend not less than an amount of funds it deems necessary for each fiscal year from the funds available under the basic grant (section 120 of the Act) for special programs and placement services which are tailored to meet the needs of the group identified in § 104.621. The scope of these vocational education programs is described in § 104.622.

(Sec. 107(b) (4) (B); 20 U.S.C. 2307.)

(c) The State may use the balance of the funds available under the basic grant (section 120 of the Act), in accordance with the approved five-year State plan and annual program plan, for any of the following purposes:
1. Vocational education programs, described in § 104.511;
2. Work-study programs, described in § 104.521;
3. Cooperative vocational education programs, described in § 104.531;
4. Energy education programs, described in § 104.541;
5. Construction of area vocational education school facilities, described in § 104.551;
6. Provision of stipends, described in § 104.571;
7. Placement services for students who have successfully completed vocational education programs, described in § 104.581;
8. Industrial arts programs, described in § 104.591;
9. Support services for women, described in § 104.611;
10. Day care services for children of students in secondary or postsecondary vocational education programs, described in § 104.631; and
11. Construction and operation of residential vocational schools, described in § 104.631.

(12) Provision of vocational training through arrangements with private vocational training institutions or other existing institutions capable of carrying out vocational education programs, described in § 104.511.

(13) State administration of the five-year State plan and annual program plan, described in § 104.536; and

Local supervision and administration of vocational education programs, services, and activities, described in § 104.537.

(Sec. 120(b); 20 U.S.C. 2330.)

VOCATIONAL EDUCATION PROGRAMS

§ 104.511 Use of funds.
(a) A State may use funds under its basic grant (section 120 of the Act) for vocational education programs which are described in its approved five-year State plan and annual program plan.
(b) Vocational education programs mean organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation (upgrading and retraining) for a career requiring an intermediate or baccalaureate or advanced degree, and, for the purpose of this paragraph, the term organized education program means only instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and the acquisition, maintenance, and repair of instructional supplies, teaching aids, and equipment, and the term vocational education does not mean the...
construction, acquisition or initial equipment of buildings, or the acquisition of rental of land."

(Sections 120(b)(1)(A), 195(1); 20 U.S.C. 2330, 2461.)

§ 104.512 Vocational instruction.
(a) For the purposes of these regulations, vocational instruction means instruction which is designed upon its completion to prepare individuals for employment in a specific occupation or a cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or preparing to engage in such occupation or occupations.
(b) Vocational instruction may include:
   (1) Classroom instruction;
   (2) Shop, laboratory, and classroom related field work;
   (3) Programs providing occupational work experience, and related instructional aspects of apprenticeship programs subject to the provisions of § 104.515;
   (4) Remedial programs which are designed to enable individuals, including persons of limited-English speaking ability, to profit from instruction related to the occupation or occupations for which they are being trained by correcting whatever educational deficiencies or handicaps prevent them from benefiting from such instruction;
   (5) Activities of vocational student organizations which are an integral part of the vocational instruction, subject to the provisions in § 104.513.
(c) Vocational instruction may be provided to:
   (1) Those preparing to enter an occupation upon the completion of the instruction;
   (2) Those who have already entered an occupation but desire to upgrade or advance in employment;
   (3) those who have already entered an occupation but desire to upgrade or advance in employment.

§ 104.514 Vocational instruction under contract.
(a) A State may make provision for any portion of the program of instruction on an individual or group basis by negotiation with an employer or trade, or through a written contract with the State board or local educational agency which is an integral part of the vocational instruction, subject to the provisions in § 104.515.
(b) The contract for instruction shall be entered into only upon a determination by the State board or local educational agency that:
   (1) The contract is in accordance with State and local law; and
   (2) The instruction to be provided under contract will be conducted as a part of the vocational education program of the State and will constitute a reasonable and prudent use of funds available under the approved five-year State plan.
(c) The State board or local educational agency may make arrangements with private (for profit or non-profit) vocational training institutions for the provision of vocational education where the standards of apprenticeship training institutions (subject to the requirements of paragraph (c) of this section) or other existing institutions capable of carrying out vocational education through a written contract with the State board or local educational agency. The contract shall describe the portion of the program to be provided by the institution and incorporate the standards and requirements of vocational instruction set forth in the regulations in this subpart and the approved five-year State plan.

§ 104.513 Activities of vocational education student organizations.
(a) A State may use funds under its basic grant to support activities of vocational education student organizations which are described in its approved five-year State plan and annual program plan and which are:
   (1) An integral part of the vocational instruction offered;
   (2) Supervised by vocational education personnel who are qualified in the occupational area which the student organization represents; and
   (3) Available to all students in the instructional program without regard to membership in any student organization.
(b) An integral part of vocational instruction includes:
   (1) Training in an organized educational program which is directly related to the preparation of individuals for paid or unpaid employment in a career requiring other than a baccalaureate or higher degree; or
   (2) Field or laboratory work incident to the vocational training; or
   (3) Development and acquisition of instructional materials, supplies, and equipment for instructional services.
(c) An integral part of vocational instruction does not include:
   (1) Lodging, feeding, conveying, or furnishing transportation to conventions or other forms of social assembly;
   (2) Purchase of supplies, jackets, and other equipment for students' personal ownership;
   (3) Cost of non-instructional activities such as athletic, social, or recreational events;
   (4) Printing and disseminating non-instructional newsletters;
   (5) Purchase of awards for recognition of students, advisors, and other individuals; and
   (6) Payment of membership dues.

§ 104.515 Apprenticeship programs.
The five-year State plan may provide for related instruction for apprentices who are employed to learn skilled trades. The State may use funds under its basic grant as a supplement to the on-the-job training experience of the apprentice.

(a) The vocational training is supplemental to the on-the-job training experienced by the apprentice.
(b) The State board or local educational agency shall review the contracts under which the State will constitute a reasonable and prudent use of funds available under the approved five-year State plan.

§ 104.516 Personal benefits.
(1) The standards of apprenticeship programs must adhere to the requirements outlined in 29 CFR Part 29 (Department of Labor Apprenticeship Programs).
(29 U.S.C. 60)

Work-Study Programs

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§ 104.521 Use of funds.
A State may use funds under its basic grant (section 120 of the Act) for approved work-study programs, which are described in its approved five-year State plan and annual program plan.

(Sec. 120 (b) (1) (B); 20 U.S.C. 2330.)

§ 104.522 Policy and procedure for work-study programs.
A State conducting work-study programs under § 104.521 shall set forth in the approved five-year State plan:
(a) An assurance that the State will adopt policies and procedures to ensure that Federal funds under this section will be expended solely for the payment or compensation of students employed pursuant to work-study programs which meet the requirements of § 104.523; and
(b) The principles for determining the priority to be accorded applications from local educational agencies for work-study programs. These principles shall give preference to applications submitted by local educational agencies serving communities having substantial numbers of youths who have dropped out of school or who are unemployed.

(Sec. 120 (b) (1) (B); 20 U.S.C. 2330.)

§ 104.523 Requirements of work-study programs.
(a) Work-study programs shall be administered by the local educational agency and shall be made reasonably available (to the extent of available funds) to all youths in the area served by the agency who are able to meet the requirements of paragraph (b) of this section.
(b) Work-study programs shall be furnished only to a student who:
(1) Has been accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the State board of education, and which the local educational agency for vocational education programs assisted under this Act has determined to be in the order determined by the application of these principles.

(Sec. 120 (b) (1) (B); 121 (b); 20 U.S.C. 2330, 2331.)

§ 104.524 Assurances in five-year State plan.
A State conducting cooperative vocational education programs under § 104.531 shall provide assurances in the approved five-year State plan that:
(a) Funds will be used only for developing and operating cooperative vocational education programs as defined in Appendix A, and in-service training for teacher coordinators, supervision, curriculum materials, travel for students and coordinators necessary to the success of such programs and evaluations;
(b) Policies and procedures will be adopted for accounting, for continuous evaluation of cooperative vocational education programs, and for follow-up of students who have completed or left these programs.

(Sec. 122; 20 U.S.C. 2332.)

§ 104.531 Use of funds.
(a) A State may use funds under its basic grant (section 120 of the Act) for grants to local educational agencies for establishing or expanding cooperative vocational education programs with the participation of public and private employers, when these programs are generally described in the approved five-year State plan and the annual program plan.
(b) The State, in its review of local applications, shall give priority for funding cooperative vocational education programs to local educational agencies in areas that have high rates of school dropouts or youth unemployment.

(Sec. 122 (a), (e); 20 U.S.C. 2332.)

§ 104.532 Assurances in five-year State plan.
A State conducting cooperative vocational education programs under § 104.531 shall provide assurances in the approved five-year State plan that:
(a) Funds will be used only for developing and operating cooperative vocational education programs as defined in Appendix A and which provide training opportunities that may not otherwise be available and which are designed to serve persons who can benefit from these programs;
(b) Necessary procedures are established for cooperation with employment agencies, labor groups, employers, and other sources in identifying suitable jobs for persons who enroll in cooperative vocational education programs;
(c) Provision is made, where necessary, for reimbursement of added costs to employers for on-the-job training of students enrolled in cooperative programs, provided that the on-the-job training is related to existing career opportunities susceptible of promotion and advancement and which do not displace other workers who perform the work;

(Sec. 122; 20 U.S.C. 2332.)

(d) The program provides cooperative on-the-job training that (1) employs and compensates student-learners in conformity with Federal, State, and local laws and regulations and in a manner not resulting in exploitation of the student-learner for private gain, and (2) is conducted in accordance with written training agreements between local educational agencies and employers.

(Implements Sec. 122 (e); 20 U.S.C. 2332.)

(e) Procedures are developed and published for use by local educational agencies for providing ancillary services and activities to assure that quality in cooperative vocational education programs is maintained and that there is no need for and may include on-the-job and in-service training for teacher coordinators, supervision, curriculum materials, travel for students and coordinators necessary to the success of such programs; and evaluation;
(f) Policies and procedures will be adopted for accounting, for continuous evaluation of cooperative vocational education programs, and for follow-up of students who have completed or left these programs.

(Sec. 122; 20 U.S.C. 2332.)

§ 104.533 Students in nonprofit private schools.
(a) A State using funds under its basic grant (Section 120 of the Act) for grants to local educational agencies for cooperative vocational education programs shall consult with the appropriate nonprofit private schools.
(b) Each local educational agency receiving funds from the State for cooperative vocational education programs shall:
(1) Identify the students enrolled in nonprofit private schools in the area served by the local educational agency whose educational needs are of the type which the cooperative vocational education programs and services may benefit; and
(2) Assess adequately the needs of the students identified in subparagraph (1) of this paragraph for the cooperative vocational education programs and services being offered; and
(3) Provide the students identified in subparagraph (1) of this paragraph with the opportunity for cooperative vocational education programs and services in a manner which will most effectively meet the needs of these students.
(c) The personnel, materials and equipment necessary to provide cooperative vocational education programs and services to nonprofit private school students shall remain under the administration, direction and control of the local educational agency.

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(d) Cooperative vocational education programs carried out by local educational agencies which include students enrolled in nonprofit private schools may be supported up to 100 percent with Federal funds.

(e) Federal funds used to support cooperative vocational education programs which include students enrolled in nonprofit private schools will not be commingled with State or local funds so as to lose their identity. In developing policies and procedures, it shall not be necessary to require separate bank accounts for funds from Federal sources, so long as accounting methods will be established which assure that expenditures of the funds can be separately identified.

(Implements Sec. 122(f); H. Rept. 1085, p 48; 20 U.S.C. 2332.)

ENERGY EDUCATION

§ 104.541 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for grants to postsecondary institutions for energy education.

(Sec. 123; 20 U.S.C. 2332.)

§ 104.542 Applications by postsecondary educational institutions.

(a) A State shall make a grant to a postsecondary educational institution only on application by the postsecondary educational institution to the State.

(b) The application shall describe with particularity a program for the training of miners, supervisors, and technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mining technology, including provision for supplementary demonstration projects or short-term seminars, which program may include curriculums such as:

(1) Extraction, preparation, and transportation of coals;

(2) Reclamation of coal mined land;

(3) Specialized and approved technology programs for coal mine employees;

(4) Disposal of coal mine wastes; and

(5) Chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process.

(c) Postsecondary educational institutions may use funds for the acquisition of equipment necessary for the conduct of these programs.

(Implements Sec. 123(a) (1) (A) through (F); 20 U.S.C. 2332.)

§ 104.543 Solar energy.

A State may also use funds under its basic grant (section 120 of the Act) to make grants to postsecondary educational institutions to carry out energy education programs for:

(a) Training of individuals needed for the installation of solar energy equipment; and

(b) Training necessary for the installation of: (1) Glass paneled solar collectors; (2) Wind energy generators; and (3) Other related applications of solar energy.

(Sec. 123(b); 20 U.S.C. 2333.)

CONSTRUCTION OF AREA VOCATIONAL EDUCATION SCHOOL FACILITIES

§ 104.551 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) to pay costs of constructing area vocational education school facilities, in accordance with the approved five-year State plan and annual program plan.

(Sec. 120(b) (1) (E); 20 U.S.C. 2330.)

§ 104.552 Types of facilities.

The State may use funds under the basic grant for construction if the facility meets one of the following requirements:

(a) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market; or

(b) The department of a high school exclusively or principally used for providing vocational training in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or

(c) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market; or

(d) The department or division of a junior college or community college or university, under the policies of the State board which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily to a baccalaureate degree. These vocational education programs must:

(1) Be available to all residents of the State or an area of the State designated by the State board for approval;

(2) Be approved by the State board; and

(3) In the case of a school, department, or division described in (c) or (d), admit as regular students both persons who have completed high school and persons who have left high school.

(Implements Sec. 120(b) (1) (E); 20 U.S.C. 2461.)

§ 104.553 Construction requirements.

An area vocational education school facility constructed under provisions of §§ 104.551 and 104.552 must meet the requirements of (a) non-discrimination provisions in 45 CFR Part 80. This includes 45 CFR 80.3 (b) (3) which provides that, in determining the site or location of the facility, a recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or otherwise subjecting them to discrimination on the grounds of race, color, or national origin, Subpart K—Construction Requirements in the General Education Provisions Regulations, 45 CFR 100.193 through 100.192, and (c) the Architectural Barriers Act of 1968, 42 U.S.C. 4151, pertaining to standards for design, construction and alteration of buildings.

(Sec. 120(b) (1) (E); 20 U.S.C. 2330; 45 CFR 100b.197 through 100b.192 42 U.S.C. 4161)

PROVISION OF STIPENDS

§ 104.571 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for the provision of stipends for students entering or already enrolled in vocational education programs if these students have acute economic needs which cannot be met under work-study, subject to the restrictions in § 104.572.

(Sec. 120(b) (1) (G); 20 U.S.C. 2330.)

§ 104.572 Restrictions on payment of stipends.

No funds shall be used for the payment of stipends to students entering or already enrolled in programs of vocational education unless the State board first makes a specific finding that the amount of funding that the funding of this particular activity is necessary due to:

(a) Inadequate funding in other programs providing similar activities; or

(b) Other services in the area that are inadequate to meet the needs,

(Implements Sec. 120(b) (1) (G); 20 U.S.C. 2330.)

§ 104.573 Application for payment of stipends by eligible recipients.

An eligible recipient desiring to provide stipends for eligible students under §§ 104.571 and 104.572 shall include a request for funds in the application submitted to the State board and shall provide in the application an assurance that each applicant to be approved meets the requirements of §§ 104.571 and 104.572.

(Implements Sec. 120(b) (1) (G); 20 U.S.C. 2330.)

§ 104.574 Rates for stipends.

Students entering or already enrolled in vocational education programs may be paid stipends at a rate not to exceed the higher of:

(a) The minimum wage prescribed by State or local law multiplied by the number of hours per week the student is enrolled in the vocational education program; or

(b) The minimum hourly wage set out under 6(a) (1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours per week the student is enrolled in the vocational education program.

(Implements Sec. 120(b) (1) (G); 20 CFR 551.6 (c); 20 U.S.C. 2330)

PLACEMENT SERVICES FOR STUDENTS WHO HAVE SUCCESSFULLY COMPLETED VOCATIONAL EDUCATION PROGRAMS

§ 104.581 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), in accordance with the approved five-year State plan and annual program plan, for providing placement services for students
who have successfully completed vocational education programs, subject to restrictions in §104.592.

(See. 120(b) (1) (E); 20 U.S.C. 2330.)

§104.592 Restrictions on placement services.

A State shall not use funds for placement services for students who have successfully completed vocational education programs, unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to:
(a) Inadequate funding in other programs providing similar activities; or
(b) Other services in the area that are inadequate to meet the needs. For example, if insufficient funds are available under Section 134(b)(3) for the placement of students successfully completing vocational education programs, the State may use funds under the basic grant for this purpose.

(See. 120(b) (2); 20 U.S.C. 2330.)

§104.593 Application for funds by eligible recipients.

An eligible recipient desiring to provide placement services to students who have successfully completed vocational education programs under §104.591 shall:
(a) Include the request for funds in the local application submitted to the State board; and
(b) Provide assurances that all placement services to be provided meet the requirements of §104.592.

(See. 120(b) (1) (E); 20 U.S.C. 2330.)

INDUSTRIAL ARTS

§104.591 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) when included in the approved five-year State plan and annual program plan, to provide vocational education programs designed to prepare individuals for employment in jobs which have been traditionally held by women in these programs. Counselors may furnish supportive services to assist students in adjusting to the new employment requirements.

(See. 120(b) (1) (J); 20 U.S.C. 2330.)

§104.592 Industrial arts programs.

Industrial arts education programs which may be funded under §104.591 are those industrial arts programs which are designed to meet the purposes of this Act (including the elimination of sex stereotyping) and which:
(a) Pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes; and
(b) Assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(Sec. 106(a); 20 U.S.C. 2401.)

SUPPORT SERVICES FOR WOMEN

§104.601 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in its approved five-year State plan and annual program plan, for support services for women enrolled in vocational education programs. Support services to be provided include:

(a) Counseling. Counseling women entering and enrolled in non-traditional programs on the nature of these programs and on the ways of overcoming the difficulties which may be encountered by women in these programs. Counselors may furnish supportive services to assist students in adjusting to the new employment requirements.

(See. 120(b) (1) (J); 20 U.S.C. 2330.)

§104.602 Types of support services.

Support services to be provided under §104.601 include:
(a) Counseling. Counseling women entering and enrolled in non-traditional programs on the nature of these programs and on the ways of overcoming the difficulties which may be encountered by women in these programs. Counselors may furnish supportive services to assist students in adjusting to the new employment requirements.

(See. 120(b) (1) (E); 20 U.S.C. 2330.)

§104.603 Support to increase number of women instructors.

In funding programs and activities of support services for women, funds may be used to increase the number of women instructors involved in the training of individuals in programs which have traditionally enrolled mostly males, so as to provide supportive examples for these women who are preparing for jobs in these nontraditional areas of employment.

(See. 120(b) (1) (J); 20 U.S.C. 2330)

DAY CARE SERVICES FOR CHILDREN OF STUDENTS

§104.611 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in its approved five-year State plan and annual program plan, to provide day care services for children of students (both male and female and including single parents) in secondary and postsecondary vocational education programs.

(See. 120(b) (1) (E); 20 U.S.C. 2330.)

§104.612 Day care services.

(a) Day care services shall be for the purpose of providing appropriate care and protection of infants, pre-school and school-age children in order to afford students who are parents the opportunity to participate in vocational education programs.

(See. 120(b) (1) (E); 20 U.S.C. 2330.)

VOCATIONAL EDUCATION PROGRAMS FOR DISPLACED HOMEMAKERS AND OTHER SPECIAL GROUPS

§104.621 Use of funds.

A State shall use funds under its basic grant (section 120 of the Act) in accordance with its approved five-year State plan and annual program plan to provide vocational education programs for the following special groups:
(a) Persons who were homemakers but who now, because of dissolution of marriage, must seek employment;
(b) Persons who are single heads of households and who lack adequate job skills;
(c) Persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and
(d) Women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered as job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered as job areas for males.

(See. 107(b) (4) (E); 120(b) (1) (E); 20 U.S.C. 2330.)

§104.622 Scope of programs.

The State shall fund programs, in accordance with the specific procedures described in its approved five-year State plan pursuant to §104.187(b) to
assess and meet the needs of the groups described in § 104.621. These programs shall include:
(a) Organized educational programs necessary to prepare these special groups for employment, including the acquisition, maintenance and repair of instructional equipment;
(b) Special programs preparing these individuals in how to seek employment; and
(c) Provision of placement service for the graduate of these programs.
(Implements Sec. 120(b)(1)(L); 20 U.S.C. 2350.)

§ 104.631 Use of funds.
A State may use funds under its basic grant (section 120 of the Act) when included in its five-year State plan and annual program plan for the construction equipment, and operation of residential vocational schools, including room, board, and other necessities.
(20 U.S.C. 2350.)

§ 104.632 Residential vocational schools.
A residential vocational school is an institution which provides vocational education for youths (males and females) who are at least 15 years of age and less than 21 years of age at the time of enrolment, and who need full-time study on a residential basis in order to benefit fully from the education. For the purposes of this section, institutions to which juveniles are assigned as a result of their delinquent conduct are not residential vocational schools. (This does not prohibit States from using funds under section 120 of the Act for the provision of vocational education programs in correctional institutions.)
(20 U.S.C. 2354.)

§ 104.633 Special considerations for residential vocational schools.
(a) States shall give special consideration to the needs of large urban areas and isolated rural areas having substantial numbers of youths who have dropped out of school or who are unemployed.
(b) Funds may not be used for schools in which students are segregated because of race.
(20 U.S.C. 2354.)

§ 104.634 Construction requirements.
When Federal funds are used to pay part of the cost of constructing a residential vocational school, the facility must meet the requirements of § 104.655.
(20 U.S.C. 2350; 46 CFR 160.17 through 160.192.)

Subpart 3—Program Improvement and Supportive Services

§ 104.701 Authorization of grants.
A State shall use 20 percent of the funds allotted pursuant to section 102(a) of the Act for any of the following purposes, except as provided in § 104.702(a):
(a) Program improvement described in § 104.702;
(b) Vocational guidance and counseling described in § 104.701;
(c) Vocational education personnel training described in § 104.747;
(d) Grants to overcome sex bias and sex stereotyping described in § 104.748;
(e) States shall submit the five-year State plan and annual program plan described in § 104.306; and
(f) Local supervision and administration of vocational education programs, services, and activities described in § 104.307.
(20 U.S.C. 2350.)

§ 104.702 Purpose.
The purpose of program improvement is to improve vocational education by the support of research programs, exemplary and innovative programs, and curriculum development programs.
(20 U.S.C. 2355.)

§ 104.703 Research coordinating unit.
(a) In order to expend funds for program improvement, the State shall establish a research coordinating unit to coordinate the exemplary and innovative programs, and curriculum development activities in the State.
(b) The State shall set forth the organizational structure of this research coordinating unit in the five-year State plan.
(c) The State shall develop a comprehensive plan of program improvement which includes:
(1) The intended uses of funds available under section 130 of the Act to support activities of program improvement;
(2) A description of the State's priorities for program improvement; and
(3) The procedures to be used by the research coordinating unit to assure that the findings and results of the program improvement activities in the State are disseminated throughout the State in a coordinated fashion.
(d) The State shall include the comprehensive plan of program improvement in the five-year State plan and annual program plan.
(e) The research coordinating unit shall submit to the Commissioner and to the National Center for Research in Vocational Education the following:
(1) Two copies of an abstract of each approved project for program improvement, within 30 calendar days after approval of the project, containing the source and amount of funds obligated for the project; and
(2) Two copies of the final report resulting from the State project, within three months after the ending date of the project.
(f) The research coordinating unit may use funds available under section 130 of the Act for the purposes set forth in §§ 104.705, 104.706, and 104.708. This unit may contract for the performance of activities described in §§ 104.705, 104.706, and 104.708, or this unit may perform the activities set forth in § 104.705, using its own staff. The cost of the professional and support staff of the research coordinating unit is supportable with Federal funds available under section 130 of the Act.
(Implements Secs. 130, 131, 133, 137, 171; 20 U.S.C. 2350 through 2353, 2401; H.R. Rept. 94-794, p. 44; H.R. Rept. 94-1701, pp. 226-229.)

§ 104.704 Contract requirements.
No contract shall be made pursuant to §§ 104.705, and 104.708 unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques and curriculum materials which substantially improve the quality of instruction, and which significantly reduce the number of classrooms or other learning situations within five years after the termination date of such contracts.
(20 U.S.C. 2351, 2353.)

§ 104.705 Use of funds for research programs.
A research coordinating unit may use funds available under section 130 of the Act directly or by contract for:
(a) Applied research and development in vocational education;
(b) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping;
(c) Improved curriculum materials for presently funded programs in vocational education and new curriculum materials for new and emerging job fields, including a review and revision of any curricula developed under this section to assure that such curricula do not reflect stereotypes based on sex, race, or national origin;
(d) Projects in the development of new careers and occupations, such as:
(1) Research and experimental projects designed to identify new careers in such fields as medicine and physical health, crime prevention and control, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions, and to delineate within such career roles the potential for advancement from one level to another;
(2) Training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (1) including programs to prepare professionals (including administrators) to work effectively with aides; and
(3) Projects to evaluate the operation of programs for the training, development, and utilization of public service aides particularly their effectiveness in providing satisfactory work experiences and in meeting public needs; and
(e) Dissemination of the results of the contracts made pursuant to paragraphs
(a) through (d), as well as the results of other research projects, including employment of persons to act as disseminators on a local level, of these results.  

(See 131(a); 20 U.S.C. 2351.)

§ 104.706 Use of funds for exemplary and innovative programs.  

(a) The research coordinating unit may use funds available under section 130 of the Act directly or by contract for:  
(1) Programs to develop high quality vocational education programs for urban centers with high concentrations of:  
(i) Economically disadvantaged individuals;  
(ii) Unskilled workers; and  
(iii) Unemployed individuals.  

(2) Programs to develop training opportunities for:  
(i) Persons in sparsely populated rural areas; and  
(ii) Individuals migrating from farms to urban areas.  

(3) Programs of effective vocational education for persons of limited English-speaking ability;  

(4) Establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and  

(5) Programs designed to broaden occupational aspirations and opportunities for youth, especially for youth who have academic, socioeconomic, or other handicaps. These programs include:  

(I) Programs and project to familiarize elementary and secondary students with the broad range of occupations for which special skills are required and the requisites for careers in those occupations; and  

(ii) Programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.  

(6) Dissemination of the results of these contracts made under the authority of paragraphs (a) through (e), including employment of persons to act as disseminators, on a local level, of these results.  

(See 132(a); 20 U.S.C. 2353.)

(b) Every contract made by a research coordinating unit for the purpose of funding exemplary and innovative projects shall:  

(1) Give priority to programs and projects designed to reduce sex bias and sex stereotyping in vocational education;  

(2) To the extent consistent with the number of students enrolled in private nonprofit schools in the area to be served, whose educational needs are of the type which the program is designed to meet, make provision (in accordance with the requirements set forth in § 104.533) for the participation of these students in the programs; and also  

(3) Provide that the Federal funds made available for exemplary and innovative programs to accommodate students in nonprofit private schools will not be commingled with State or local funds.  

(See 122(b); 20 U.S.C. 2352.)

§ 104.707 Disposition of exemplary and innovative programs.  

The State shall indicate in the annual program plan and accountability report covering the final year of financial support by the State for any exemplary and innovative program:  

(a) The proposed disposition of the program when Federal support ends; and  

(b) The means by which successful or promising programs will be continued and expanded within the State.  

(See 132(c); 20 U.S.C. 2352.)

§ 104.708 Use of funds for curriculum development programs.  

The research coordinating unit may use funds available under section 130 of the Act directly or by contract for:  

(a) Development and dissemination of vocational education curriculum materials for new and changing occupational fields;  

(b) Development and dissemination of vocational education curriculum materials for:  

(1) Handicapped persons;  

(2) Disadvantaged persons (other than handicapped persons);  

(3) Persons of limited English-speaking ability;  

(c) Development and dissemination of curriculum and guidance and testing materials designed to overcome sex bias and sex stereotyping in occupational programs;  

(d) Support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex; and  

(e) Development and dissemination of other curriculum materials designed to improve the State's vocational education programs.  

(See 133(a); 20 U.S.C. 2353.)

VOCATIONAL GUIDANCE AND COUNSELING  

§ 104.761 Purpose.  

The purpose of vocational guidance and counseling assistance is to improve the State's vocational education programs by providing support for vocational development, guidance and counseling programs, services, and activities.  

(Secs. 130(b)(4), 134(a); 20 U.S.C. 2350, 2354.)

§ 104.762 Conformity with five-year State plan.  

(a) A State shall use not less than 20 percent of the Federal funds available under section 130 of the Act to support vocational development guidance and counseling programs, services, and activities.  

(b) The expenditure of funds for this purpose shall be in accordance with the approved five-year State plan and annual program plan.  

(See 134; 20 U.S.C. 2354; Sen. Rept. 94-882, p. 69.)

§ 104.763 Kinds of programs, services, and activities.  

Funds made available to a State under the vocational guidance and counseling program (section 134 of the Act) shall be used to support one or more of the following activities:  

Guidance and counseling.  

(a) Initiation, implementation, and improvement of high-quality vocational and educational counseling and guidance programs and activities;  

(b) Vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;  

(c) Provision of educational and job placement programs and follow-up services for students in vocational education and for individuals preparing for professional occupations or occupations requiring a baccalaureate or higher degree. Follow-up services provided to bachelor's or higher degree students shall be only for students enrolled on or after October 1, 1977;  

(d) Vocational guidance and counseling training designed to acquaint guidance counselors with (1) the changing work patterns of women, (2) ways of effectively overcoming occupational sex stereotyping, and (3) ways of assisting women and girls in selecting careers consistent with their occupational needs and interests, and to develop improved career counseling materials which are free;  

(e) Vocational and educational counseling for youth offenders and adults in correctional institutions;  

(f) Vocational guidance and counseling for persons of limited English-speaking ability;  

(g) Establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped individuals, individuals from the economically depressed communities or areas, and early retirees; and  

(h) Leadership for vocational guidance and exploration programs at the local level.  

(Implements Sec. 134(a); 20 U.S.C. 2354; Sen. Rept. No. 95-142.)

§ 104.764 Special emphasis.  

Recipients of funds allocated by the State for programs, services, and activities listed in § 104.763 (a) or (b) shall use those funds, insofar as is practicable:  

(a) To bring individuals with experience in business and industry, the professions, and other occupations to acquire knowledge of the work accomplished therein; and
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(See 130(b); 20 U.S.C. 2354.)

(c) To enable guidance counselors to obtain experience in business and industry, the professions, and other occupational pursuits which will better enable those counselors to carry out their guidance and counseling duties.

(See 130(b); 20 U.S.C. 2354; Conf. Rept. No. 94-401, p. 1.)

VOCATIONAL EDUCATION PERSONNEL TRAINING

§ 104.771 Purpose.

The purpose of vocational education personnel training is to improve the State’s vocational education programs and the services which support those programs by improving the qualifications of personnel preparing to serve in vocational education programs.

(See 150(a); 20 U.S.C. 2355.)

§ 104.772 Conformity with five-year State plan.

(a) The State may use funds available under section 130 of the Act to support vocational education personnel training programs.

(See 150(a); 20 U.S.C. 2355.)

(b) In order to be eligible for support under section 130 of the Act, specific programs and projects of training must be in accord with the general plan for vocational education personnel training as set forth in the approved five-year State plan and annual program plan for vocational education.

(See 120(b); 20 U.S.C. 2350.)

§ 104.773 Eligible participants.

Training may be provided to persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel.

(See 150(a); 20 U.S.C. 2355.)

§ 104.774 Types of training.

Funds available to the State under section 130 of the Act may be used to support programs and projects designed to improve the qualifications of persons who are eligible under §104.773, including (but not limited to) the following:

(a) Training or retraining for teachers, and supervisors and trainers of teachers, in vocational education in new and emerging occupations;

(b) In-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs, and to overcome sex bias and sex stereotyping in vocational education programs;

(c) Provisions for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrangements for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such schools;

(d) Training to prepare journeymen in the skilled trades or occupations for teaching positions;

(e) Training, including in-service training, for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision and administration of vocational education for persons who are disadvantaged, or handicapped, or who are of limited English-speaking ability, and to train or retrain counseling and guidance personnel to meet the special needs of these persons;

(f) Provision of short-term or regular session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

(See 150(a); 20 U.S.C. 2355.)

§ 104.775 Grants or contracts.

The State board may make grants or contracts, in accordance with its five-year State plan and annual program plan, in support of both training and retraining programs and projects to provide:

(a) Both pre-service and in-service education; and

(b) Both regular session (academic year) institutes and short-term institutes.

(See 150(a)(6), (b); 20 U.S.C. 2355.)

§ 104.776 Stipends to trainees.

Within the limits set in paragraphs (c) (1) of this section, the State board may, at its discretion, authorize payment of:

(a) Stipends to participating trainees in programs or projects supported under section 130 of the Act; and

(b) Allowances for other expenses for such trainees and their dependents.

(See 120(b); 20 U.S.C. 2350.)

(c) Part-time and short-term training. For part-time training and for short-term training (for periods not in excess of the equivalent of ten working days), the upper limits of stipends per participant are:

(1) Per hour of actual training, a sum not in excess of the average amount earned per hour of teaching by full-time classroom teachers in the State;

(2) Per full day of training, a sum not in excess of six times the rate per hour set in paragraph (c) (1) of this section; and

(3) Per five-day week of training, a sum not in excess of five times the rate per day set in paragraph (c) (2) of this section.

(d) Full-time academic year or summer session. The upper limits for stipends per participant for full-time training are:

(1) Per academic year of approximately nine months, a sum not in excess of $4,500; and

(2) Per summer session of at least six weeks, a sum not in excess of $600.

(See 130(b); 20 U.S.C. 2355.)

(See 150(b); 20 U.S.C. 2350.)

§ 104.791 Purpose.

The purpose of grants under §104.792 is to support activities which show promise of overcoming sex bias and sex stereotyping in vocational education.

(See 120(b) (6), 130; 20 U.S.C. 2350, 2356.)

§ 104.792 Conformity with five-year State plan.

(a) A State may use funds available under section 130 of the Act to support grants to overcome sex bias and sex stereotyping in vocational education programs.

(See 130; 20 U.S.C. 2356.)

(b) The expenditure of funds for this purpose shall be in accordance with the approved five-year State plan and annual program plan. The plans shall describe the types of projects to be funded.

(See 120(b); 20 U.S.C. 2356.)

§ 104.793 Types of projects.

Funds may be used for projects such as:

(a) Research projects on ways to overcome sex bias and sex stereotyping in vocational educational programs;

(b) Development of curriculum materials free of sex stereotyping;

(c) Development of criteria for use in determining whether curriculum materials are free from sex stereotyping;

(d) Examination of current curriculum materials to assure that they are free of sex stereotyping; and

(e) Training to acquaint guidance counselors, administrators, and teachers with ways of effectively overcoming sex bias and sex stereotyping, especially in assisting persons in selecting careers ac-

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programs. them to succeed in vocational educationance, or programs in order to enablepersons (other than handicapped per-
nonprofit private schools have been adopted which assure that
subpart to accommodate students in
number of such students; and
meet, to the extent consistent with the
educational needs are of the type which
requirements set forth in
been made for the participation of stu-
§ 140.801 Grants to States for special
advantaged persons.
A State shall use the funds allocated to it from the separate authorization (section 102(b) of the Act) for special programs for the disadvantaged as defined in § 104.804 and Appendix A of these regulations.
(Sec. 140; 20 U.S.C. 2370.)

§ 104.802 Use of funds.
(a) A State shall use the funds available under § 104.801, in accordance with the approved five-year State plan and annual program plan, for special programs of vocational education for disadvantaged persons in areas of high concentration of youth unemployment or school dropouts.
(b) A State shall use the funds under § 104.801 to pay up to 100 percent of the cost of special programs for disadvantaged persons.
(c) Funds available under § 104.801 may be used in addition to funds made available to the State for basic grants (section 120 of the Act): Provided, That the funds are used to conduct special programs of vocational education for the disadvantaged to enable them to succeed in vocational education programs.
(Sec. 140; 20 U.S.C. 2370.)

§ 104.803 Students in nonprofit private schools.
A State may grant funds to eligible recipients only if:
(a) Provision (in accordance with the requirements set forth in § 104.583) has been made for the participation of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or projects involved is to meet, to the extent consistent with the number of such students; and
(b) Effective policies and procedures have been adopted which assure that Federal funds made available under this subpart to accommodate students in nonprofit private schools will not be commingled with State or local funds.
(Sec. 140(b)(2); 20 U.S.C. 2370.)

§ 104.804 Criteria of need and eligibility.
(a) The term "disadvantaged" means persons (other than handiapped persons) who:
(1) Have academic or economic dis-
advantages; and
(2) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs.
(Sec. 195(18); 20 U.S.C. 2461.)
(b) "Academic disadvantage," for the purposes of this definition of "disadvantaged," means that a person:

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(1) Lacks reading and writing skills;
(2) Lacks mathematical skills; or
(3) Performs below grade level.
(c) "Economic disadvantage," for the purposes of this definition of "disad-
avantaged," means:
(1) Family income is at or below na-
tional poverty level;
(2) Participants or parent(s) or guard-
ian of the participant is unemployed;
(3) Participant or parent of partici-
pant is recipient of public assistance; or
(4) Participant is institutionalized or
under State guardianship.
(Implements Sec. 140; 20 U.S.C. 2370.)
(d) Eligibility for participation in the special programs supported under § 104.801 is limited to persons who (because of academic or economic disadvantage):
(1) Do not have, at the time of en-
trance into a vocational education pro-
gram, the prerequisites for success in the
program; or who
(2) Are enrolled in a vocational edu-
cation program but require supportive
services or special programs to enable them to meet the requirements for the
program that are established by the
State or the local educational agency.
(Implements Sec. 140; 20 U.S.C. 2370.)

Subpart 5—Consumer and Homemaking Education

§ 104.901 Grants to States for consumer and
homemaking education.
A State shall use the funds allotted to it from the separate authorization (section 102(c) of the Act) for programs of consumer and homemaking education.
(Sec. 150(c); 20 U.S.C. 2380.)

§ 104.902 Use of funds.
A State shall use the funds available under section 150 of the Act, in accordance with its approved five-year State plan and annual program plan, solely for:
(a) Programs in consumer and home-
making;
and
(b) Ancillary services in relation to programs under paragraph (a) of this section.
(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.903 Programs in consumer and
homemaking education.
(a) Programs in consumer and home-
making education may be conducted at all educational levels (elementary, sec-
ondary, postsecondary or adult).
(b) Programs in consumer and home-
making education consists of instructional programs, services, and activities for the occupation of homemaking.
(c) Programs for the occupation of
homemaking include (but are not limited to):
(1) Consumer education;
(2) Food and nutrition;
(3) Family living and parenthood edu-
cation;
(4) Child development and guidance;
(5) Housing and home management
(including resource management); and
(6) Clothing and textiles.
(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.904 Purpose of programs in con-
sumer and homemaking education.
A State shall set forth in the five-year State plan and annual program plan the programs in consumer and homemaking education which it intends to support. Funds available under section 150 of the Act shall only be provided to support ed-
programs in consumer and homemaking education which:
(a) Encourage participation of both
males and females to prepare for com-
binating the roles of homemakers and
-wage earners;
(b) Encourage elimination of sex
stereotyping by promoting the develop-
ment of curriculum materials which deal
with:
(1) Increased numbers of women
working outside the home;
(2) Increased numbers of men assum-
 homeworking responsibilities;
(3) Changing career patterns of men
and women; and
(d) Appropriate Federal and State
laws relating to equal opportunity in ed-
cation and employment;
(g) Give greater consideration to e-
conomic, social, and cultural conditions
and needs, especially in economically de-
pressed areas and, where appropriate, to
bilingual instruction;
(d) Encourage eligible recipients to
open outreach programs in communi-
ties for youth and adults, giving con-
sideration to their special needs, such as
(but not limited to):
(1) The aged;
(2) Young children;
(3) School-age parents;
(4) Single parents;
(5) Handicapped persons;
(6) Educationally disadvantaged per-
sons;
(d) Programs connected with health
care delivery systems, such as providing
parenthood education, nutrition educa-
tion and consumer education and
programs providing services for
suits and correctional institutions, such as
providing child development and
guidance programs for short term court
toffenders;
(e) Prepare males and females who
have entered or are preparing to enter
into the work of the home; and
(f) Emphasize the following areas in
order to meet current societal needs:
(1) Consumer education;
(2) Management of resources;
(3) Promotion of nutritional knowl-
edge and food use; and
(d) Promotion of parenthood edu-
cation.
(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.905 Ancillary services.
A State may use funds available under section 150 of the Act to provide ancil-
ary services, activities, and other means of assuring quality in all consumer and
homemaking education programs. These ancillary services may include (but are
not limited to): (a) Teacher training;
(b) teacher supervision; (e) curriculum
development; (d) research; (e) program
evaluation; (f) special demonstration
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§ 105.101 Purpose.

The purpose of program improvement is to support projects for the improvement of vocational education and a national center for research in vocational education as authorized in section 171 of the Act. Funds available to the Commissioner for program improvement under section 163 of the Act will be used primarily for contracts and in some cases for grants.

(See. 105, 171; 20 U.S.C. 2302, 2401.)

§ 105.102 National center for research in vocational education.

(a) The Commissioner will support a national center for research in vocational education. The center (a nonprofit agency) will be chosen once every five years. The Commissioner will appoint an advisory committee to assist the center. The center shall have such research, advisory, and management functions and responsibilities as are included in the vocational education research resources available, geographical area to be served, and the schools, programs, projects, and students and areas to be served by research activities.

(b) The center shall directly or through other public agencies:

(1) Conduct applied research and development on problems of national significance in vocational education;

(2) Provide leadership development through an advanced study center and in-service education activities for State and local leaders in vocational education;

(3) Disseminate the results of research and development projects funded by the center;

(4) Develop and provide information to facilitate national planning and policy development in vocational education;

(5) Act as a clearinghouse for information on projects supported by the States and the Commissioner and compile an annotated bibliography of research, exemplary and innovative projects, and curriculum development projects assisted with funds made available under this Act since July 1, 1970; and

(6) Work with States, local educational agencies, and other public agencies in developing methods of evaluating programs, including the follow-up studies of program completers and leavers required by section 112 of the Act, so that these agencies can offer job training programs which are more closely related to the types of jobs available in their communities, regions, and States.

(See. 105(a) (3); 20 U.S.C. 2401.)

§ 105.103 Armed services curriculum materials.

The Commissioner will make contracts to convert to use in local educational agencies, private nonprofit schools, and other public agencies curriculum materials involving job preparation which have been prepared for use by the armed services of the United States.

(See. 171(a) (9); 20 U.S.C. 2401.)

§ 105.104 Authorized activities.

(a) The Commissioner will support projects of national significance for improvement of vocational education. The Commissioner will have the following activities as authorized in sections 131 through 136 of the Act:

(1) Research (section 131 of the Act);

(2) Exemplary and innovative programs (section 132 of the Act);

(3) Curriculum development (section 133 of the Act);

(4) Vocational guidance and counseling (section 134 of the Act);

(5) Vocational education personnel training (section 135 of the Act); and

(6) Grants to assist in overcoming sex bias and sex stereotyping (section 136 of the Act).

(b) Functions under the above may include:

(1) Applied research and development;

(2) Experimental and pilot programs;

(3) Curriculum revision and development;

(4) Demonstration, dissemination, and utilization of research and development products; personnel training; and evaluation.

(See. 131 through 136, 171(a) (1); 20 U.S.C. 2301-36, 2401.)

§ 105.105 Eligible applicants.

(a) Eligible applicants for project support include:

(1) Public organizations, institutions, and agencies;

(2) Nonprofit and profit-making private organizations, institutions, and agencies; and

(3) Individuals.

(b) Profit-making private organizations, institutions, and agencies, and individuals are eligible for contracts only.

(c) Eligible applicants for the national center for research in vocational education include nonprofit agencies only.

(Interprets Sec. 171; 20 U.S.C. 2401.)

§ 105.106 Cost sharing.

No cost sharing is required. The Commissioner may pay all or part of the cost.

(Interprets Sec. 171(b) (5) (A); 20 U.S.C. 2401.)

§ 105.107 Duration of project support.

The Commissioner will not support a project for a period to exceed three fiscal years.

(See. 171(b) (6) (B); 20 U.S.C. 2401.)

§ 105.108 Improved teaching techniques or curriculum materials.

The Commissioner will not make a grant pursuant to §105.104 unless the applicant can demonstrate a reasonable probability that the grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of the grant.

(See. 171(b) (1); 20 U.S.C. 2401.)

§ 105.109 Exemplary and innovative projects.

(a) The Commissioner will make a contract for an exemplary and innovative project only if the project provides for the participation of students enrolled in nonprofit private schools consistent with:

(1) The number of such students in the area to be served by the project; and

(2) The educational needs of those students is of the type which the project is involved to meet.

(b) The contract shall provide that the Federal funds will not be commingled with State or local funds.

(See. 171(b) (2); 20 U.S.C. 2401.)

§ 105.110 Technical review criteria.

The following criteria will be used in reviewing applications. These criteria are consistent with 45 CFR 100a.26, Review of Applications, in the General Provisions for Office of Education Programs. A summary of the requirements of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. Taking into consideration the scores for each criterion is listed below. Applications that receive less than 50 points will not be funded.

(a) National need. (Maximum 15 points.) The need section clearly: (1) Describes the national need in vocational education for the proposed project; (2) Provides specific evidence of the need; (3) Indicators specifically what or who will be helped; and (4) Describes the problem rather than symptoms of the problem.

(b) Literature review. (Maximum 5 points.) The literature review is sufficiently comprehensive to:

(1) Establish the basis for the problem;

(2) Describe the problem in contrast to the symptoms of the problem;

(3) Provide a strong conceptual framework for the proposed objectives and planned project; and

(4) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.

(c) Objectives. (Maximum 10 points.) The objectives are related to the problem and: (1) Are significant for vocational education; (2) Clearly describe proposed project outcomes; (3) Are capable of being attained; and (4) Are measurable.

(d) Plan. (Maximum 18 points.) The plan clearly describes: (1) The overall design for the proposed project; and (2) The specific procedures by which each objective will be accomplished. Normally the plan will include:

(1) Precise definitions of terms; (ii) Description of the characteristics and number of subjects; (iii) Sampling procedures and control groups; (iv) Instru-
ment; and (v) Statistical and analytical procedures.
(c) Management plan. (Maximum 8 points.) The management plan adequately describes the way in which personnel and resources will be used to accomplish the objectives of the plan developed in criterion (c).
(d) Evaluation plan. (Maximum 8 points.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.
(e) Results, end products, outcomes, and dissemination. (Maximum 10 points.) The application clearly describes:
(1) What will be delivered to the government;
(2) The format in which the results, products, or outcomes will be delivered to the government;
(3) The way in which results, products, or outcomes will be developed or provided for dissemination purposes to specified user populations; and
(4) The procedures to be used in disseminating the results, end products, or outcomes to the local, state, and/or national levels.
(f) Staff competencies and experience. (Maximum 7 points.) The application clearly describes:
(1) The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and consultants;
(2) Time commitments planned for the project by the project director, key staff, advisory groups, and consultants;
(3) Evidence of past and successful experiences of the proposed project director and key staff members in similar or related projects;
(4) Use of professional staff members from minorities or women; and
(5) The competencies that are required for the proposed project.
(g) Budget and cost effectiveness. (Maximum 7 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective with respect to proposed results, products, or outcomes.
(h) Institutional capability and commitment. (Maximum 4 points.) The application provides adequate evidence of:
(1) Institutional or individual's experience and commitment to the proposed work;
(2) Appropriate facilities and equipment;
(3) Assurance of support from cooperating agencies, local educational agencies, postsecondary institutions, business, industry, and labor, where applicable for successful implementation of the project.
(i) Sex bias and stereotyping. (Maximum 8 points.) The application provides appropriate plans to eliminate sex bias and stereotyping in the proposed results, end products, and outcomes, and the proposed dissemination plans.

(Implements Sec. 171; 20 U.S.C. 2401.)
§ 105.111 Additional application review factors.
In addition to the criteria listed in § 105.110, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications: (a) Duplication of effort; (b) Duplication of funding; and (c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 171; 20 U.S.C. 2401.)
Subpart 2—Indian Tribes

CONTRACT PROGRAM FOR INDIAN TRIBES AND INDIAN ORGANIZATIONS

§ 105.201 Purpose.
The purpose of the program for Indian tribes and Indian organizations is for the Commissioner to make a contract or contracts directly with Indian tribal organizations, with funds available under section 103(a) (1) of the Act, to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the Act, particularly section 103(a) (1) (B) (iiii) of the Act.

(See Secs. 1(a) (1); 20 U.S.C. 2303.)

(a) Any contract entered into under this subpart is subject to the provisions of sections 4, 5, 6, 7(c) and 102 of the "Indian Self-Determination and Education Assistance Act of 1975," Pub. L. 93-638.
(b) Regulations implementing the above sections of the Indian Self-Determination and Education Assistance Act, Title 25 of the Code of Federal Regulations, §§ 371.9, 271.9, 271.47, and 271.50 are applicable to the extent that they are relevant and practicable.
(c) Whenever the term "Secretary of the Interior" is used, in the Indian Self-Determination and Education Assistance Act, the term "Secretary of the Interior" for purposes of this subpart, "Commissioner of Education."

(See Secs. 1(a) (1) (B) (iii); 20 U.S.C. 2303; 25 U.S.C. 450e, et seq.)

§ 105.203 Definitions.
(a) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or community, including any Alaska Native Claims Settlement Act is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.
(b) "Tribal organization" means the recognized governing body of any Indian tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body, which is democratically elected by the adult members of the Indian community to be served by the organization and which includes the maximum participation of Indians in all phases of its activities.

(25 U.S.C. 450b.)
§ 105.204 Assistance contracts.
Awards will be made competitively through assistance contracts governed by Subchapter A of Title 45, Code of Federal Regulations (entitled "General Provisions for Office of Education Programs"), except to the extent that appropriate sections of the Indian Self-Determination and Education Assistance Act of 1975 apply or to the extent that Commissioner regulations. An application apply. The criteria in 45 CFR 1006.26(b) do not apply to this program.

(See Secs. 103(a) (1) (B) (iii); 20 U.S.C. 2303; 25 U.S.C. 450e.)

§ 105.205 Eligible applicants.
An Indian tribal organization of an Indian tribe which is eligible to contract with the Commissioner must be a tribe, band, nation, or other organized group or community, including any Alaska Native Claims Settlement Act of 1975 or under the Act of April 13, 1934, is eligible for assistance contracts.

(See Secs. 103(a) (1) (B) (iiii); 20 U.S.C. 2303; 25 U.S.C. 450e.)

§ 105.206 Applications for assistance contracts.
An application from an eligible tribal organization must be submitted to the Commissioner by the Indian tribe and must contain the information that the Commissioner requires. An application which serves more than one Indian tribe shall be approved by each tribe to be served in the application.

(See Secs. 103(a) (1) (B) (iii); Pub. L. 93-638; 20 U.S.C. 2303; 25 U.S.C. 450e.)

§ 105.207 Review for duplication of effort.
An applicant shall submit a copy of the application directly to the Commissioner of the Bureau of Indian Affairs and the State board at the same time it submits an application to the Office of Education in order to avoid duplication of funding.

(Implements Sec. 103(a) (1) (B) (iii); 20 U.S.C. 2303.)

§ 105.208 No cost sharing.
No cost sharing by the applicant is required.

(Implements Sec. 103(a) (1) (B) (iii); 20 U.S.C. 2303.)

§ 105.209 Duration of awards.
(a) The total project period of an award may not exceed three years. The Commissioner may make multi-year awards if the nature of the project warrants multi-year funding. Continuation funding is contingent upon satisfactory performance. Application for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.
(b) A request for continuation of a project beyond the project period will
be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

(Implements Sec. 103(a) (1) (B) (iii); 45 CFR 100.430; 20 U.S.C. 2303.)

§ 105.210 Final reports.

The contractor shall submit final financial status and performance reports as the Commissioner shall request.

(45 CFR 100a.430; 45 CFR 100a.432; 20 U.S.C. 2303.)

§ 105.211 Technical review criteria.

The following criteria will be utilized in reviewing applications. These criteria are consistent with 45 CFR 100a.26(b).

Review of Applications, In the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application or part of an application. The maximum aggregate score for the criteria is 100 points, and the maximum weight for each criterion is listed below in parentheses. Points will be awarded to the extent that evidence in the application satisfies each criterion. The review of these criteria shall constitute the basis for the Commissioner to enter or decline to enter into a contract with an eligible applicant. If the review of any application results in no recommendation to fund (where funds are available), this will mean that it is not satisfactory, as that term is used in the Indian Self-Determination Act (Section 102). Applications must receive a minimum of 30 points to be considered for funding.

(25 U.S.C. 450d.)

(a) Program improvement. (Maximum 15 points.) The application focuses on the improvement of occupational training opportunities for Indians and delineates the manner in which the proposed program will contribute to improved programs for the specific target group.

(b) Need. (Maximum 10 points.) The need section clearly: (1) Describes the need for the activity; (2) Provides specific evidence of the need; (3) Indicates specifically how the need will be met; and (4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(c) Objectives. (Maximum 10 points.) The objectives: (1) Relate to the need; (2) Are significant, for vocational education; (3) Clearly describe proposed program outcomes; (4) Are capable of being attained; and (5) Are measurable.

(d) Plan. (Maximum 15 points) The plan clearly describes the way in which the objectives will be accomplished by: (1) The overall design for the proposed program; and (2) The use of specific procedures to implement activities designed to accomplish each objective of each segment of the proposed program; (3) A description of: (i) Specific activities to be conducted in the proposed program; (ii) Instruments to be used in the proposed program; (iii) Instructional material to be used in the proposed program, if appropriate; and (iv) Population to be served in the proposed program; and (4) Statistical and analytical procedures, if appropriate.

(e) Management plan. (Maximum 10 points) The management plan adequately describes the way in which personnel and resources will be utilized to accomplish each objective, the overall design, and each major procedure.

(f) Evaluation plan. (Maximum 10 points.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results in terms of the achievement of project goals and objectives.

(g) Applicant's staff competencies and experience. (Maximum 10 points.) Points will be awarded in the extent to which the applicant clearly demonstrates: (1) The competencies that are required for the proposed project; (2) The names and qualifications (including past management qualifications) of the project director, key professional, advisory groups, and any consultants; (3) Time commitments planned for the project by the project director, key staff, advisory groups, and any consultants; (4) Evidence of past and successful experience of the proposed project director and key members in similar or related projects; (5) Evidence of commitment to section 7(b) of the Indian Self-Determination and Education Assistance Act.

(h) Budget and cost effectiveness. (Maximum 10 points.) Points will be awarded on the extent to which the application provides a Justifiable and Itemized statement of cost which contains line items in the proposed budget and appears to be cost effective with respect to proposed results. (i) Institutional capability and commitment. (Maximum 10 points.) The application provides adequate evidence of: (1) Institutional experience and commitment to the proposed work; (2) Appropriate facilities and equipment; and (3) Documented assurances of support from cooperating local educational agencies, postsecondary institutions, business, industry, or labor, if support from any of these groups is necessary for successful implementation of the project.

(Implements Sec. 103(a) (1) (B) (iii); 20 U.S.C. 2303; 20 U.S.C. 450d.)

§ 105.212 Additional factors for declining to contract.

In addition to the weighted technical review criteria listed in §105.211, the Commissioner may use any of the factors listed below in making a decision whether to decline to enter into a contract with an eligible applicant.

(a) The program duplicates an effort already being made;

(b) Funding the program would create an inequitable distribution among tribes; or

(c) The applicant has not performed satisfactorily under a previous Office of Education award.

(Implements Sec. 103(a) (1) (B) (iii); 20 U.S.C. 2303; 25 U.S.C. 450d.)

§ 105.213 Hearing by the Commissioner after declining to enter into a contract.

After receiving notice from the Commissioner that the Office of Education will not award a contract to an eligible applicant, the tribal organization or the tribe shall have 30 calendar days to request a hearing, in writing, to review the Commissioner's decision.

(25 U.S.C. 450d.)

§ 105.214 Remaining funds.

From any remaining funds reserved for this subpart, the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians as described in section 103(a) (B) (i) of the Act. The Secretary of the Interior is authorized to receive funds for that purpose.

(Sec. 103(a) (1) (B) (iii); 20 U.S.C. 2303.)

Subpart 3—Training and Development Programs for Vocational Education—Personnel

LEADERSHIP DEVELOPMENT AWARD PROGRAM

§ 105.301 Purpose.

The purpose of the leadership development award program is to provide opportunities for experienced vocational educators to spend full time in advanced study of vocational education.

(Sec. 172(a) (1); 20 U.S.C. 2402.)

§ 105.302 Leadership development awards.

(a) Awards. The Commissioner will make leadership development awards to qualified vocational educational personnel (such as administrators, supervisors, teacher educators, researchers, guidance and counseling personnel, and instructors in vocational education) for graduate training in an approved vocational education leadership development program of an approved institution of higher education.

(See. 172(b) (1), (3); 20 U.S.C. 2402.)

(b) Award period. Leadership development awards will be made for a period not to exceed 36 months.

(See. 172(b) (2) (A); 20 U.S.C. 2402)

§ 105.303 Equitable geographical distribution.

In order to meet the needs for qualified vocational educational personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after
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§ 105.304 Eligibility of individuals.
(a) A person is eligible to receive a leadership development award if such person:
(1) Has had not less than two years of experience in vocational education or in business or industrial training or military technical training, or in the case of researchers, experience in social science research which is applicable to vocational education; and
(2) Is currently employed or is reasonably assured of employment in a vocational education and has successfully completed, as a volunteer, a baccalaureate degree program; and
(3) Is recommended by his or her employer, or others, as having leadership potential.
(b) A person is eligible to receive a stipend if such person:
(1) Has had not less than two years of experience in vocational education or in business or industrial training or military technical training, or in the case of researchers in social science research which is applicable to vocational education; and
(2) Is currently employed or is reasonably assured of employment in vocational education and has successfully completed, as a volunteer, a baccalaureate degree program; and
(3) Is recommended by his or her employer, or others, as having leadership potential.

§ 105.306 Stipends to individuals.
(a) Academic year. Each person awarded a leadership development award is entitled to receive a stipend of:
(1) $4500 for each academic year of full-time study at the institution of higher education; and
(2) $675 for each academic year for each dependent.
(b) Summer session. An additional stipend may be awarded of:
(1) $900 for full-time summer study at the same institution of higher education; and
(2) $170 for this period for each dependent.

§ 105.307 Conditions for continued eligibility.
(a) Satisfactory participation. A recipient of an award may continue to receive payments under § 105.306 only during such periods as the Commissioner finds that the recipient:
(1) Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;
(2) Is devoting essentially full time to such study or research; and
(3) Is not engaging in gainful employment, other than part-time employment, in teaching, research, or similar activities endorsed by that institution and approved by the Commissioner.

(b) Employment limitation. The limitation with respect to employment set forth in paragraph (a) of this section does not apply to the period of time between an academic year and a summer session or between academic years if a stipend is not received under § 105.306(b) for full-time study.

§ 105.308 Payment conditioned on approval.
Leadership development award payments under § 105.306 are made only to individuals who have been approved for the period for which the award is made. Such payments are subject to the availability of funds under § 105.310.

§ 105.309 Technical review criteria.
The Commissioner will use the following criteria in reviewing applications. The criteria in § 105.306 are not the only criteria that are subject to continued availability of Federal funds under § 105.306.

(a) Academic ability. (Maximum 30 points) The applicant provides evidence of his or her academic ability. This must include:
(1) Transcripts of grades earned in college, including graduate courses; and may include (2) Scores earned on the Graduate Record Examination, Miller Test of Analogies, or similar tests; and (3) Results earned on specific skill aptitude tests.
(b) Leadership potential. (Maximum 20 points) The applicant provides evidence of leadership potential. The applicant must include:
(1) Letters of recommendation from employers; (2) Other written materials such as reports, abstracts, and instructional materials;
(c) Institutional eligibility, and approval.

§ 105.311 Institutional eligibility, and approval.

Upon receipt of an application from an institution of higher education, requesting approval of its vocational education leadership development program,
§ 105.431 Purpose.

The purpose of the vocational education certification fellowships is to provide opportunities for (a) Certified teachers who have been trained in other fields to become vocational educators if those teachers have skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

(b) Persons in industry, business, and agriculture who have skills and experience in vocational fields for which there is need for vocational educators (but who do not necessarily have baccalaureate degrees) to become vocational educators.

§ 105.432 Awards to two categories of fellows.

The Commissioner is authorized to award fellowships to two categories of persons for undergraduate study in institutions of higher education:

(a) Persons who are or have been certified by a State as teachers in elementary and secondary schools, community and junior colleges, and other thirteenth and fourteenth year programs, within the ten-year period prior to the current closing date for applications under this program and who:

1. Have or have had skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

2. Are unable to find employment in their field of previous training.

(b) Persons (not necessarily baccalaureate degree holders) employed in industry, business, or agriculture who:

1. Have skills and experience in vocational fields in which there is a need for vocational educators; and

2. Have been accepted by a teacher training institution for enrollment in a program which will assist them in becoming vocational educators.

§ 105.433 Fellowship period.

Fellowships will be made for periods not to exceed 24 months.

§ 105.434 Application procedures.

(a) Submission of applications. Any eligible individual who wishes to receive a vocational education certification fellowship shall submit an application to the Commissioner and send one copy of the application to the State board for vocational education for the State in which the applicant is a resident.

(b) Role of the State board. The State board, with advice from the State advisory council, from other agencies involved in State planning and reporting, and from representatives of vocational education programs in institutions of higher education, will:

1. Review the applications;

2. Collect advice as to the merits of each application;

3. Advise the Commissioner as to the merits of each application; and

4. Forward all applications and statements of advice to the Commissioner for review and decision by the Commissioner.

§ 105.435 Equitable geographical distribution.

In order to meet the needs for qualified vocational education personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after applications and statements of advice have been reviewed and scored on their merits will make certification fellowship awards in an equitable manner among the States, taking into account such factors as:

(a) The State's vocational education enrollment; and

(b) The incidence of youth unemployment and school dropouts in the State.

§ 105.436 Stipend to fellows.

(a) Academic year. Each person awarded a fellowship is entitled to receive a stipend of:

1. $500 for each academic year of full-time study at the institution of higher education to which that person is assigned for the fellowship period; and

2. $675 for each academic year for each dependent.

(b) Summer session. An additional stipend may be awarded of:

1. $300 for full-time summer study at the same institution of higher education; and

2. $170 for this period for each dependent.

§ 105.437 Conditions for continued eligibility.

(a) Satisfactory participation. A recipient of a fellowship may continue to receive payment under § 105.439 only during such period as the Commissioner finds that the recipient:

1. Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;

2. Is devoting essentially full time to study or research, and

3. Is not engaging in gainful employment, other than part-time employment in teaching, research, or similar activities, or earning more than the minimum for the academic year.

(b) Employment limitations. The limitation with respect to employment set forth in paragraph (a) (3) of this

VOCATIONAL EDUCATION CERTIFICATION FELLOWSHIP PROGRAM

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FEDERAL REGISTER, VOL. 42, NO. 191—MONDAY, OCTOBER 3, 1977

Section 105.431 Purpose.

The purpose of the vocational education certification fellowships is to provide opportunities for:

(a) Certified teachers who have been trained in other fields to become vocational educators if those teachers have skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

(b) Persons in industry, business, and agriculture who have skills and experience in vocational fields for which there is need for vocational educators (but who do not necessarily have baccalaureate degrees) to become vocational educators.

Section 105.432 Awards to two categories of fellows.

The Commissioner is authorized to award fellowships to two categories of persons for undergraduate study in institutions of higher education:

(a) Persons who are or have been certified by a State as teachers in elementary and secondary schools, community and junior colleges, and other thirteenth and fourteenth year programs, within the ten-year period prior to the current closing date for applications under this program and who:

1. Have or have had skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

2. Are unable to find employment in their field of previous training.

(b) Persons (not necessarily baccalaureate degree holders) employed in industry, business, or agriculture who:

1. Have skills and experience in vocational fields in which there is a need for vocational educators; and

2. Have been accepted by a teacher training institution for enrollment in a program which will assist them in becoming vocational educators.

Section 105.433 Fellowship period.

Fellowships will be made for periods not to exceed 24 months.

Section 105.434 Application procedures.

(a) Submission of applications. Any eligible individual who wishes to receive a vocational education certification fellowship shall submit an application to the Commissioner and send one copy of the application to the State board for vocational education for the State in which the applicant is a resident.

(b) Role of the State board. The State board, with advice from the State advisory council, from other agencies involved in State planning and reporting, and from representatives of vocational education programs in institutions of higher education, will:

1. Review the applications;

2. Collect advice as to the merits of each application;

3. Advise the Commissioner as to the merits of each application; and

4. Forward all applications and statements of advice to the Commissioner for review and decision by the Commissioner.

Section 105.435 Equitable geographical distribution.

In order to meet the needs for qualified vocational education personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after applications and statements of advice have been reviewed and scored on their merits will make certification fellowship awards in an equitable manner among the States, taking into account such factors as:

(a) The State's vocational education enrollment; and

(b) The incidence of youth unemployment and school dropouts in the State.

Section 105.436 Stipend to fellows.

(a) Academic year. Each person awarded a fellowship is entitled to receive a stipend of:

1. $500 for each academic year of full-time study at the institution of higher education to which that person is assigned for the fellowship period; and

2. $675 for each academic year for each dependent.

(b) Summer session. An additional stipend may be awarded of:

1. $300 for full-time summer study at the same institution of higher education; and

2. $170 for this period for each dependent.

Section 105.437 Conditions for continued eligibility.

(a) Satisfactory participation. A recipient of a fellowship may continue to receive payment under § 105.439 only during such period as the Commissioner finds that the recipient:

1. Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;

2. Is devoting essentially full time to study or research, and

3. Is not engaging in gainful employment, other than part-time employment in teaching, research, or similar activities, or earning more than the minimum for the academic year.

(b) Employment limitations. The limitation with respect to employment set forth in paragraph (a) (3) of this
section does not apply to the period of time between an academic year and a summer session, or between academic years if a stipend is not received under §105.436(b) for full-time summer study. (Interprets Sec. 172(c)(5); 20 U.S.C. 2402.)

§ 105.438 Payment conditioned on appropriation.

Fellowship payments under §105.436 after the first year of the fellowship period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act. (Interprets Sec. 172; 20 U.S.C. 2402.)

§ 105.439 Institutional allowance.

(a) The Commissioner will (in addition to the stipends paid to a fellowship recipient under §105.436) pay an institutional allowance to the institution of higher education at which the recipient is pursuing his or her course of study in an amount equal to the normal tuition, fees and other charges for the academic year, with an additional $500 per participant for full-time study during the summer session; (b) The institutional allowance is made in lieu of tuition and all non-refundable fees and deposits that would otherwise be required of the fellow; and (c) Any portion of the institutional allowance in excess of the normal tuition, fees and other charges, non-refundable fees, and deposits attributable to the fellow shall be used by the institution to improve the program of vocational education in that institution. (Implements Sec. 172(c)(2)(B); 20 U.S.C. 2402.)

§ 105.440 Institutional eligibility and approval.

The Commissioner will approve the vocational education fellowship program of an institution of higher education only upon finding that: (a) The program is capable of enabling unemployed certified teachers or persons from business, industry, or agriculture to become certified vocational education teachers; (Interprets Sec. 172(c)(1)(B); 20 U.S.C. 2402.) (b) The institution offers a program in vocational education which is sufficiently comprehensive to meet, at the undergraduate level, the requirements for certification of the applicant in the State where the institution is located; (c) In the case of applicants seeking certification in a particular area of study designated by the Commissioner as being in need of additional personnel, the institution is capable of preparing students for certification in that particular area; (Implements Sec. 172(c)(7); 20 U.S.C. 2402.) (d) The fellow will receive education and training of the same type as that offered by the institution to undergraduate students preparing to become vocational education teachers; and (c) The undergraduate program in vocational education includes adequate support services and disciplines, such as education administration, guidance and counseling, special education for the handicapped, research, and curriculum development. (Implements Sec. 172(c)(3); 20 U.S.C. 2402.)

§ 105.441 Teaching fields in need of additional teachers.

The Commissioner will publish, before the beginning of each fiscal year, a listing of the areas of teaching in vocational education where there are or will be shortages of personnel and will, to the maximum extent feasible, award fellowships under §105.432 to applicants seeking to become teachers in the areas identified. (Sec. 172(c)(7); 20 U.S.C. 2402.)

§ 105.442 Content of applications.

(a) For certified teachers. Each certified teacher applicant shall provide in his or her application evidence of: (1) Certification as a teacher in an elementary or secondary school or junior or community college or other thirteenth and fourteenth grade program within the ten-year period prior to the current closing date of applications under this program; and (2) Past or current skills and experiences in the vocational field(s) in which there is a need for additional educators and for which he or she seeks training as a vocational educator; and (3) Inability to find employment in his or her field of previous certification. (b) For qualified as teachers. Each applicant who has not been a certified teacher shall provide in his or her application evidence of: (1) The nature and duration of his or her employment in business, agriculture, or industry; and (Interprets Sec. 172(c)(1)(B); 20 U.S.C. 2402.) (2) Having skills and experiences in one of the vocational areas where vocational educators are needed. (Sec. 172(c)(1)(B); 20 U.S.C. 2402.) (c) Assurance by the institution. The institution of higher education designated in the application for a fellowship shall provide in that application an assurance that the: (1) Applicant has been accepted for enrollment in the program of vocational education designated in the application; and the (2) Institution meets the requirements for institutional eligibility set forth in paragraphs (a) through (e) of §105.440. (Implements Sec. 172(c)(2); 20 U.S.C. 2402.)

§ 105.444 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. The criteria in 45 CFR 100a.26(b) do not apply to this program. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criteria.

The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 50 points to be considered for funding.

(a) Academic ability. (Maximum 25 points.) The applicant provides evidence of his or her level of academic achievement and academic ability. This may include: (1) Transcripts or diplomas of the applicant and the maximum degree possible, award fellowship; (2) Results earned on specific skill aptitude tests; and (3) Results of other tests, where appropriate.

(b) Human relations skills. (Maximum 35 points.) The applicant provides evidence of his or her performance in a work situation requiring vocational skills. This may include: (1) Letters of recommendations of previous employers or others, as appropriate; (2) Results of National Occupational Competency Testing Institute, where appropriate; (3) Certificates, or approval, as appropriate; and (4) Work related experience, including teaching, where appropriate.

(c) Communication skills. (Maximum 15 points.) The applicant provides evidence of skill in interpersonal relations. This may include evidence with: (1) Professional groups; (2) Community groups; (3) Volunteer groups; (4) Work related organizations; (5) Members of minority groups, the disadvantaged, and handicapped persons; and (6) Other groups, as appropriate.

(d) National need. (Maximum 10 points.) The applicant describes in writing his or her goals, objectives, and aspirations in vocational education and their relationship to national needs in vocational education with particular reference to the elimination of sex stereotyping and working with the following populations: (1) Disadvantaged persons; (2) Members of minority groups; and (3) Handicapped persons. (H.R. Rept. No. 94-1085, p. 55.)

(e) Additional factors. In addition to the criteria listed above, the Commissioner will consider the following factors: (1) Equitable distribution among males and females; (2) Geographical distribution; (3) Membership in minority groups; and (4) The applicant's intention to become certified in a vocational field not traditionally open to persons of the applicant's sex, or to become certified in a new field or field not commonly taught. (Implements Sec. 101(3), 123(b)(4); 20 U.S.C. 2201, 2402; H.R. Rept. No. 94-1085, p. 55.)
Subpart 4—Emergency Assistance for Remodeling and Renovating of Vocational Education Facilities

§ 105.501 Purpose.

The purpose of this program is to provide emergency assistance to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training. The purpose is to assist those local educational agencies in the modernization of facilities or equipment and the conversion of academic facilities necessary to assure that the facilities will be able to offer vocational education programs which give reasonable assurance of employment.

(See 193; 20 U.S.C. 2441.)

§ 105.502 Eligible applicants.

(a) Any local educational agency in an urban or rural area is an eligible applicant.

(See 193(a); 20 U.S.C. 2443.)

(b) "Rural area" means an area which is not included within a Standard Metropolitan Area (as defined by the U.S. Bureau of Census) and which is not within or contiguous with, a city, town, borough, or village, or other subcounty political unit, the population of which exceeds 2,500.

(c) "Urban area" means an area within a city, town, or borough with a population of over 100,000.

(Implements Sec. 193(a); 20 U.S.C. 2443.)

§ 105.503 Content of applications.

An application for a grant or assistance contract shall set forth:

(a) A description of the facility to be remodeled or renovated, including:

1. The date of completion of construction of the facility (or the part of the facility to be remodeled or renovated);

2. The extent of remodeling or renovation necessary to enable the facility to provide a modern program of vocational education;

3. A description of the equipment to be replaced or modernized and reference to the particular purpose for which the equipment will be used;

4. A description of the extent to which the modernization or conversion of facilities and equipment will be consistent with, and further the goals of, the five-year State plan, including the elimination of sex and racial bias and sex stereotyping in educational programs;

5. The financial ability of the local educational agency to undertake the modernization without Federal assistance;

(Implements Sec. 193(a)(1)–(4); 20 U.S.C. 2443.)

(c) Assurance that the facility to be remodeled or renovated will meet standards adopted pursuant to the Architectural Barriers Act;

(See 193(a)(6); 20 U.S.C. 2443; 42 U.S.C. 4151–4155.)

(d) The extent of State and local funds available to match Federal funds together with the sources and amounts of the funds;

(e) Such other information as the State board determines to be appropriate.

(See 193(a)(6), (7); 20 U.S.C. 2443.)

(f) The reasons why renovation or remodeling rather than replacement is planned or why some other facility is not available;

(g) The cost of each major item of renovation or remodeling;

(h) Facts showing that renovation or remodeling is cost effective.

(Implements Sec. 193(a)(8); 20 U.S.C. 2443.)

§ 105.504 Submission of applications through the State board.

An applicant shall send the application to the Commissioner through the State board.

(See 193(a); 20 U.S.C. 2443.)

§ 105.505 Technical review criteria.

(a) The Commissioner will rank all applicants according to their relative need for assistance.

(See 193(c); 20 U.S.C. 2443.)

(b) The relative need for assistance will be determined by the following criteria (total 100 points):

1. The age or obsolescence of the facilities and equipment for which assistance is sought (maximum 17 points);

2. The rate of youth unemployment in the labor market area served by the local educational agency (maximum 12 points);

3. The number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency (maximum 12 points);

4. The percentage such youth represent, as compared with the vocational education enrollment in the local educational agency (maximum 12 points);

5. The ability of the facility to comply with the standards adopted pursuant to the Architectural Barriers Act (maximum 5 points);

(Implements Sec. 193(b)(1)–(5); 20 U.S.C. 2443; 42 U.S.C. 4151–4155.)

(c) The need for the proposed facilities or equipment in relation to the employment needs of the State or labor market area (maximum 12 points);

(d) Adequacy of the proposed facilities or equipment for the training or educational requirements of the specific vocational training program(s) to be accommodated by the proposed facilities or equipment (in terms of linework and educational specifications) (maximum 10 points);

(e) Evidence that the proposed renovation or remodeling is cost effective and is not elaborate or extravagant (maximum 5 points);

(f) Evidence that the planned renovation or remodeling is a more cost-effective approach than replacement (maximum 5 points); and

(g) Evidence that the local educational agency does not have the financial ability to undertake the renovation or remodeling without Federal assistance, and the ability of the State education agency and the local educational agency to match proposed Federal funds (maximum 10 points).

(Implements, Sec. 192(b)(1); 20 U.S.C. 2443.)

(b) The Commissioner will consider the degree to which the modernization of facilities and equipment proposed in the application affords promise of achieving the goals set forth in the approved five-year State plan.

(See 192(b)(2); 20 U.S.C. 2443.)

§ 105.506 Payments to local educational agencies.

(a) The Commissioner will pay 75 percent (except as noted in paragraph (b)) of the cost of approved applications in the order they are ranked under § 105.505(b).

(Implements Sec. 193(c); 20 U.S.C. 2443.)

(b) The Commissioner may waive the 75 percent limit and may pay up to the full cost of the project upon the Commissioner's finding, in writing, that a local educational agency with an approved application is serving from extreme financial need and cannot, because of the 75 percent limit, participate in the program.

(Implements Sec. 193(e); 20 U.S.C. 2443.)

(c) Applications will be funded until the appropriation is exhausted.

(d) The Commissioner will reserve from the appropriation for the fiscal year for which the application is made an amount sufficient to pay the entire Federal share of each approved project and will obligate that amount from the appropriation even though the project may not be completed within the fiscal year.

(Implements Sec. 194(a); 20 U.S.C. 2444.)

(e) The Commissioner will pay approved applicants in advance or by way of reimbursement, or in installments consistent with HEW practices.

(Implements Sec. 194(b); 20 U.S.C. 2444.)

§ 105.507 Construction requirements.

The Office of Education's regulations for the Commissioner's direct project grant and contract programs (45 CFR Part 100a) shall apply to projects for assistance under this program, particularly the Commissioner's regulations on "Bonding and Insurance" (45 CFR Part 100a, Subpart J, §§ 100a.120–125) and on "Construction Requirements" (Subpart K, §§ 100a.155–192, (45 CFR Part 100a).

In addition, the non-discrimination provisions in 45 CFR Part 80 apply. This includes 45 CFR 80.3(b)(3) which provides that, in determining the site or location of the facility, a recipient may not make selections with the effect of excluding individuals from, denying them the bene-
fits of, or subjecting them to discrimination on the grounds of race, color, or national origin.

(Implements Sec. 183; 20 U.S.C. 2443.)

Subpart 5—Bilingual Vocational Education

BILINGUAL VOCATIONAL TRAINING PROGRAM § 105.601 Purpose.

The purpose of the bilingual vocational training program is to prepare persons of limited English-speaking ability to perform adequately in an environment requiring English language skills and to fill the critical need for more and better trained persons in occupational categories vital to both the persons and the economy. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational training programs.

(Sec. 181; 20 U.S.C. 2411; Conf. Rept. No. 94-1701, p. 228.)

§ 105.602 Eligible programs.

Sixty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of operating programs designed to carry out the purposes set forth in § 105.601 in an amount equal to the total sum expended by the applicant for the purposes set forth in the application. No cost sharing is required. These programs include:

(a) Bilingual vocational training programs for persons who have completed or left elementary or secondary school.

(b) Bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing employment needs, expand their range of skills, or advance in employment.

Training allowances for participants in bilingual vocational training programs described in paragraphs (a) and (b) of this section are an allowable cost. Allowances are subject to the same limitations as set forth in the Department of Labor Regulations 29 CFR 55.34. Applicants may waive training allowances in accordance with the waiver procedure in 29 CFR 55.34(j).

(Sec. 185; 20 U.S.C. 2415.)

§ 105.603 Eligible applicants.

The following agencies or institutions are eligible for grants or contracts, except item (d) being eligible only for contracts:

(a) Local educational agencies;

(b) State agencies;

(c) Postsecondary educational institutions;

(d) Private nonprofit vocational training institutions; and

(e) Nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English; and

(f) Private for profit agencies and organizations.

(Sec. 184; 20 U.S.C. 2414.)

§ 105.604 Applications for grants or contracts.

(a) An applicant shall submit a copy of the application to the State board at the same time it is submitted to the Office of Education. The State board shall submit its comments to the Office of Education within 30 days after the closing date for applications.

(b) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(c) An applicant shall set forth a bilingual vocational training program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes described in § 105.601.

(d) An applicant shall provide an assurance that the program will include instruction in the English language and that the trainee’s dominant language in order to assure that participants in the training will be assisted to pursue occupations in environments where English is the language normally used.

(e) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) shall include an evaluation of the previous project and will be reviewed competitively with new applications.

(Sec. 184; 20 U.S.C. 2414; Sec. 189A(b); 20 U.S.C. 2420.)

§ 105.605 Review of applications.

(a) The Commissioner may approve an application for assistance under the bilingual vocational training program only if the application:

(1) Meet the requirements set forth in § 105.604;

(2) Is consistent with the criteria set forth in § 105.606; and

(3) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the Federal Register.

(b) Prior to making awards in a State, the Commissioner will, where feasible, consult with the State board to achieve equitable distribution of assistance among populations of persons of limited English-speaking ability with the most acute need for training within the State.

(Sec. 189A, 189B(a) (3); 20 U.S.C. 2420, 2421.)

§ 105.606 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 109a.26. Review of Applications in the Office of Education, General Provisions for Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 30 points to be considered for funding.

(a) Need. (Maximum 10 points.)

(1) Describes the need for the proposed bilingual vocational training;

(2) Provides specific evidence of the need;

(3) Indicates specifically how the need will be met; and

(4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) Objectives. (Maximum 10 points.)

(1) Are significant and need clearly identified in bilingual vocational training;

(2) Clearly describe the proposed project outcomes; and

(3) Are capable of being measured and attained.

(c) Plan. (Maximum 15 points.) The plan clearly describes the ways in which the objectives will be accomplished by:

(1) The overall design for the proposed project; and

(2) The specific procedures of each segment of the design. Normally the plan will include a description of:

(i) Proposed trainees;

(ii) Recruiting procedures to be used;

(iii) Training program including a description of both the bilingual vocational training and the language instruction which is designed to ensure that trainees will acquire sufficient competency in English to work in environments where English is the language normally used;

(iv) Support services to be offered to trainees;

(v) Instructional materials to be used in the proposed program;

(vi) Anticipated level of skill of the trainees at the end of the proposed training;

(vii) Activities to be used in aiding trainees to secure employment, if appropriate; and

(viii) Tests to be used in the proposed program components.

(d) Management plan. (Maximum 6 points.) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(e) Evaluation plan. (Maximum 12 points.) The plan includes valid and reliable procedures for assessing and documenting the bilingual vocational training program and the progress of the trainees.

(f) Applicant’s staff competencies and experience. (Maximum 25 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, professional staff, consultants, and advisory groups;

(2) Time commitments planned for the project director, core staff, and advisory groups, and any consultants;
(a) Pre-service training programs designed to prepare persons to participate in bilingual vocational training or bilingual educational activities: (1) Instructors; (2) Aides; and (3) Ancillary personnel such as guidance personnel and counselors.

(b) In-service and developmental programs designed to enable instructional and ancillary personnel to continue to improve their qualifications while participating in bilingual vocational training programs; fellowships or traineeships for persons engaged in activities described in (a) and (b) are allowable costs. A fellowship is an award to an individual student made by a granting agency of the Department. A traineeship is an award to an institution for student support (scholastic or allowances) and for institutional support (either in a predetermined amount or based on actual costs).

§ 105.613 Eligible applicants.

(a) The following categories of agencies or institutions are eligible for grants or contracts, except those being awarded in a State, where feasible, consult will be reviewed competitively with those being awarded in a State.

(b) The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 20 U.S.C. 2420. The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 20 U.S.C. 2420.

§ 105.614 Applications for grants or contracts.

(a) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered or supervised only by an individual.

(b) An applicant shall set forth in the application specific evidence of the need for the proposed instructor training program only if the application:

(1) Meets the requirements set forth in § 105.614;

(2) Is consistent with the criteria set forth in § 105.616;

(3) Is submitted to the Commissioner at the time of the application. The Commissioner will, where feasible, consult with the State board to achieve equitable distribution of assistance among persons of limited English-speaking ability with the most acute need for training within the State.

§ 105.616 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 20 U.S.C. 2420. The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 20 U.S.C. 2420. The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 20 U.S.C. 2420.

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project; (2) Specific procedures of each segment of the design in terms of accomplishing the objectives; (3) Normally the plan will include:
(i) Description of the training program, including all program components;
(ii) Description of the minimum qualifications of the persons to be enrolled in the training program;
(iii) Description of the selection process and the amounts of the fellowships or traineeships, if any, to be granted to persons enrolled in the program;
(iv) Evidence that the applicant institution actually has an ongoing vocational training or vocational education program in the field for which persons are to be trained, including a listing of the vocational courses offered by the institutions;
(v) Evidence that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained; and
(vi) Evidence that a need exists for instructors who will receive training in the proposed project.

(d) Management plan. (Maximum 8 points) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(e) Evaluation plan. (Maximum 12 points) The plan includes rigorous procedures for assessing and documenting the instructor training program including both the vocational component and the language component.

(f) Applicant's staff competencies and experience. (Maximum 25 points) The application clearly describes:
(1) The names and qualifications (including project management qualifications) of the project director, professional staff, consultants, and advisory groups;
(2) Time commitments planned for the project director, key staff, advisory groups, and any consultants;
(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and
(4) Staff competencies that are essential for the proposed project, including proficiency in English and in the language other than English.

(g) Budget and cost effectiveness. (Maximum 10 points) The application provides adequate evidence of:
(1) Institutional experience and commitment to the proposed work;
(2) Appropriate facilities and equipment necessary for the proposed project;
(3) Appropriate accreditation of the applicant institution by regional or national associations and approval by appropriate State agencies of the courses offered; and
(d) Documented assurance of support from cooperating agencies, institutions, and community groups where applicable for successful implementation of the project.

(Implements Sec. 189a; 20 U.S.C. 2420.)

§ 105.617 Additional application review factors.

In addition to the criteria listed in § 105.616, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications:

(a) Duplication of effort;
(b) Duplication of funding; and
(c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 189; 20 U.S.C. 2411.)

BILINGUAL VOCATIONAL INSTRUCTIONAL MATERIALS, METHODS, AND TECHNIQUES PROGRAM

§ 105.621 Purpose.

The purpose of the bilingual vocational instructional materials, methods, and techniques program is to develop instructional materials and encourage research programs and demonstration projects to meet the critical shortage of such instructional materials suitable for bilingual vocational training programs. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational instructional materials, methods, and techniques.

(Implements Sec. 189; 20 U.S.C. 2418.)

§ 105.622 Eligible programs.

Ten percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of developing and testing instructional materials, methods, or techniques for bilingual vocational training in an amount equal to the total sum expended by the application for the program set forth in the application. No cost sharing is required. These programs include:

(a) Research in bilingual vocational training;
(b) Development of instructional materials;
(c) Training programs designed to familiarize State agencies and training institutions with research findings and successful pilots and demonstration projects in bilingual vocational training;
(d) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and
(e) Other demonstration and dissemination projects in bilingual vocational training.

(Implements Sec. 189; 20 U.S.C. 2418.)

§ 105.623 Eligible applicants.

The following categories of agencies or institutions are eligible for grants or contracts, except items (e) and (f) being eligible only for contracts:
(a) State agencies;
(b) Public educational institutions;
(c) Private educational institutions;
(d) Nonprofit organizations;
(e) Private-for-profit organizations; and
(f) Individuals.

(See 189; 20 U.S.C. 2418.)

§ 105.624 Applications for grants or contracts.

(a) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(b) An applicant shall set forth in the application a bilingual vocational instructional materials, methods, and techniques program of a type described in § 105.622.

(c) An applicant shall set forth in the application the qualifications of the staff who will be responsible for the program, for which a minimum of 10 total points is required.

(d) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a proposal reviewed in a previous round of applications shall be rejected.

(Implements Sec. 189a; 20 U.S.C. 2420.)

§ 105.625 Review of applications.

The Commissioner may approve an application for assistance under the bilingual vocational instructional materials, methods, and techniques program only if the application:
(a) Meets the requirements set forth in § 105.624;
(b) Is consistent with the criteria set forth in 105.626; and
(c) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the Federal Register.

(Implements Sec. 189a; 20 U.S.C. 2420.)

§ 105.626 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100a.36, Review of Applications in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum score of 50 points to be considered for funding.

(a) Need. (Maximum 20 points) The need is determined:
(1) Describes the national significance and the need in bilingual vocational training for the proposed project;
(2) Provides specific evidence of the need;
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3(3) Indicates specifically who or what will be helped; and
(4) Describes the problem rather than the symptoms of the problem.
- (b) Literature review. (Maximum 5 points) A literature review is sufficiently comprehensive to:
(1) Establish the basis for the problem;
(2) Describe the problem in contrast to the symptoms of the problem;
(3) Provide a strong conceptual framework for the proposed objectives and proposed plan, including the general design and specific procedures of the proposed plan, along with the management, evaluation, dissemination, and training procedures (when appropriate); and
(4) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.
- (c) Objectives. (Maximum 10 points) The objectives are related to the problem and:
(1) Are significant for bilingual vocational training; (2) Clearly describe proposed project outcomes; (3) Are capable of being attained; and (4) Are measurable.
- (d) Plan. (Maximum 15 points) The plan clearly describes:
(1) The overall design for the proposed project; and
(2) The specific procedures by which each objective will be accomplished. Normally the plan will include:
(1) Precise definitions of terms; (ii) Description of the characteristics and number of subjects; (iii) Sampling procedures and control groups; (iv) Instrumentation; and (v) Statistical and analytical procedures.
- (e) Management plan. (Maximum 10 points). The management plan adequately describe the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (d).
- (f) Evaluation plan. (Maximum 10 points) The plan includes rigorous procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.
- (g) Results, end products, outcomes, and dissemination. (Maximum 10 points) The application clearly describes:
(1) What will be delivered to the government;
(2) The format in which the results, products, or outcomes will be delivered to the government;
(3) The way in which results, products, or outcomes will be delivered or provided for dissemination purposes to specified user populations, and
(4) The procedures to be used in disseminating the results, products, or outcomes to the local, State, and/or national levels.
- (h) Applicant's staff competencies and experience. (Maximum 10 points.) The application clearly describes:
(1) The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and consultants;
(2) Time commitments planned for the project by the project director, key staff, advisory groups, and consultants;
(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and
(4) The competencies that are required for the proposed project.
- (i) Budget and cost effectiveness. (Maximum 5 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective with respect to proposed results, products, or outcomes.
- (j) Applicant's capability and commitment. (Maximum 5 points.) The application provides adequate evidence of:
(1) Institutional or individual's experience and commitment to the proposed work;
(2) Appropriate facilities and equipment; and
(3) Documented assurance of support from cooperating agencies, local educational agencies or postsecondary institutions, business, industry, and labor, where applicable for successful implementation of the project.

ELIGIBILITY CRITERIA

Appendix A

DEFINITIONS


"Administration" means activities of a State or an eligible recipient necessary for the proper and efficient performance of its duties under the Act, including supervision, but not including ancillary services. (Secs. 101-105, 20 U.S.C. 2201 et seq.)

"Adult program" means (for reporting purposes) vocational education for persons who have already entered the labor market or who are unemployed or who have completed or left high school and who are not described in the definition of "postsecondary program." (Sec. 110(c); 20 U.S.C. 2261)

"Ancillary services" means activities which contribute to the enhancement of quality in vocational education programs, including activities such as teacher training and curriculum development, but excluding administration (except in consumer and homemaking education under Section 156 of the Act). (Inputs Sec. 105(20); 20 U.S.C. 2261)

"Area vocational education school" means:
(a) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market;
(b) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or
(c) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.

The department or division of a junior college or community college or university operating under the policies of a State board which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree, if:
(1) The vocational programs are available to all students of the State designated and approved by the State board; and
(2) In the case of a school, department, or division described in (c) or (d), it admits as regular students both persons who have completed high school and persons who have left high school.

"Bilingual vocational training" means training or retraining in which instruction is presented in both the English language and the dominant language of the persons receiving training and which is conducted as part of a program designed to prepare individuals of limited English-speaking ability for gainful employment as: certified or skilled workers or technicians or subprofessionals in recognized occupations and in new and different occupational fields to persons who are eligible for services under this Act.

"Commissioner" means the Commissioner of Education. (Sec. 105(6); 20 U.S.C. 2261)

"Construction" includes:
(a) Construction of new buildings;
(b) Acquisition, expansion, remodeling, and alteration of existing buildings;
(c) Site grading and improvement; and
(d) Architect fees.

Cooperative education' means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction, by alternation of study and work in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

Curriculum materials' means materials:
(a) Covering instruction in a course or series of courses in any occupational field; and
(b) Designed to prepare persons for employment at the entry level; or
(c) Designed to prepare persons for employment at the entry level; or
(d) Designed to prepare persons for employment at the entry level.

Disadvantaged' means:
(a) Have academic or economic disadvantages and (2) Require special services, assistance, or instruction in a course or series of courses in any occupational field.

Academic disadvantage' for the purpose of this definition of 'disadvantaged,' means that a person:
(i) Lacks reading and writing skills;
(ii) Lacks mathematical skills; or
(iii) Performs below grade level.

Economic disadvantage' for the purpose of this definition of 'disadvantaged,' means:
(a) Family income is at or below national poverty level; and
(b) Participant or parent(s) of the participant is unemployed; or
(c) Participant is a recipient of public assistance; or
(d) Participant is institutionalized or under State guardianship.

Financial ability' as used in section 1201(a) of the Higher Education Act, 20 U.S.C. 106(a) (5) (A) (i); 20 U.S.C. 2461.)

Postsecondary program' means vocational education for persons who have completed or left high school who are enrolled in organized programs of study for credit toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs.

Private vocational training institution' means any business, school, office, institution or other technical or vocational school, in any State, which (a) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institutions; (b) is legally authorized to provide, and provides, training within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (c) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (d) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, or (2) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, or (3) if the Commissioner determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded. (Pub. L. 95-40; 20 U.S.C. 2461.)

School facilities' means:
(a) Classrooms and related facilities (including initial equipment and interests in lands on which such facilities are constructed); and
(b) School facilities' does not include any facility intended primarily for events for which admission is to be charged to the general public.

State board' means the State board designated by State law as the State agency responsible for:
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(a) The administration of vocational education; or
(b) Supervision of the administration of vocational education in the State.

(Sec. 195(9); 20 U.S.C. 2641.)

"State educational agency" (SEA) means:
(a) The State board of education; or
(b) Other similar State agency primarily responsible for the State supervision of public elementary and secondary schools; or
(c) If there is no such office or agency, an office or agency designated by the Governor or by State law.

(Sec. 195(11); 20 U.S.C. 2641.)

"Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; for purposes of this paragraph, the term "organized education program" means only:
(a) Instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to be gainfully employed; or (b) The acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment.

The term "vocational education" does not mean the construction, acquisition, or initial equipment of buildings, or the acquisition or rental of land.

(Sec. 195(1); 20 U.S.C. 2641.)

"Vocational instruction" means instruction which is designed to prepare individuals upon its completion for employment in a specific occupation or cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or related instructional aspects of apprenticeship programs;

(d) Remedial programs which are designed to enable individuals to profit from instruction related to the occupation or occupations being trained by correcting what ever educational deficiencies or handicaps prevent them from benefiting from such instruction; and
(e) Remedial programs provided by State education and related instructional aspects of apprenticeship programs;

(f) Remedial programs which are designed to enable individuals to profit from instruction related to the occupation or occupations being trained by correcting what ever educational deficiencies or handicaps prevent them from benefiting from such instruction; and
(g) Remedial programs provided by State education and related instructional aspects of apprenticeship programs.

(Implement Sec. 120(b)(1)(A); 195(1); 20 U.S.C. 2330, 2641.)

APPENDIX B

QUESTIONS AND ANSWERS

Many specific questions were raised by interested persons with respect to the implementation of the Act and to rules and regulations which the Act requires or which are inferred and which raise important policy considerations and have legal significance. Recognizing that the goal of a uniform regulation on these issues can best be achieved through publication in the Federal Register, the Commissioner has decided to issue the following questions and answers as supplementary information to the regulations.

Question No. 1: To what part of the Act does the section 106(a)(5) funding formula apply?
Answer: The section 106(a)(5) funding formula must be applied to all Federal funds distributed under sections 120, 124, 160 and 165. In addition, certain parts of the Act impose other special funding criteria, priorities, and which must be considered. For example, both the work study program (section 125) and cooperative vocational education (section 125) require that priority in funding be given to areas of high youth dropout or youth unemployment.

Question No. 2: Is it permissible for the State educational agency (SEA) to contract with another agency to fulfill the requirements of section 104.75(b) which are specifically designed to work to eliminate sex discrimination and sex stereotyping?
Answer: The SEA may contract for personnel to assist the State board in this capacity, but the contract must specify that the personnel are hired under contract to eliminate sex discrimination and sex stereotyping from vocational education programs by performing the functions listed in §104.75. If the personnel are hired under contract, the State agency is responsible for the performance of the personnel as it would be if the personnel were employed directly by the State board.

Question No. 3: What should the qualifications be for personnel to be hired to eliminate sex bias, sex discrimination, and sex stereotyping?
Answer: Section 104.75(b) requires the State to match the qualifications of the applicants with the responsibilities of the job. The responsibilities are set forth in §104.75. In addition, the personnel should have demonstrated experience in the elimination of sex bias, sex discrimination, and sex stereotyping.

Question No. 4: How can a State department of education legally monitor the professional practices of local educational agencies who are, for all practical purposes, autonomous?
Answer: Section 104(b)(1) of the Act requires that the full-time personnel to eliminate sex bias monitor the implementation of all laws prohibiting sex discrimination. In a State where the local educational agencies have a great deal of autonomy and the State personnel have no authority to enforce changes, the SEA should have no objection to the full-time personnel exercising their own judgment and experience, including cooperative education and related instructional aspects of apprenticeship programs.

Question No. 5: Does the certification contain any specific requirements in §104.75(j) which require the full-time personnel to review and submit recommendations on the five-year plan?
Answer: No. The certification in §104.171(g) does not preclude inclusion of any comments the full-time personnel wish to make. Under §104.171(h) the full-time personnel must make information readily available to the State board and the Commissioner and must review the five-year plan and submit recommendations on it. Comments on the State plan may be submitted with the certification or at any other convenient time.

Question No. 6: May a vocational education student be appointed to the State advisory council pursuant to section 106(a)(20) of the Act even though the individual will no longer be a student after two years?
Answer: Yes. Since members of the advisory council must be appointed for terms of three years, an appointment held by a student who is involved in vocational education for a maximum of two years would become vacant after the individual's status as a student expired. The appointing body, therefore, would be required to fill the vacancy for the unexpired term (§104.171).
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Answer: Membership on the planning group is limited to one official representative for each of the agencies, councils, and individual categories specified in section 107(a) (1) of the Act. One person may be the State agency's representative for more than one of the ten program categories, thus incurring multi-responsibility. There is, however, no requirement for a vote by each representative.

Question No. 16: What basis should the State use to determine if a shift in funding for programs in secondary schools has occurred in accordance with § 104.615?
Answer: No. CEFA is not an instrument for purposes of § 104.615. Although the coordination efforts in § 104.188 the State board will have data on programs conducted under CEFA and will consider these data in its planning.

Question No. 17: What is the purpose of the section 107(b) (2) (A)?
Answer: No. CEFA is not an instrument for purposes of § 104.615. Although the coordination efforts in § 104.188 the State board will have data on programs conducted under CEFA and will consider these data in its planning.

Question No. 18: May a State be required to submit the section 107(a) (2) and section 108 (a) (2) requirement to provide sufficient public notice to the State board for the five-year plan and annual program plans?
Answer: Yes. The State must pay at least 50% of the figures reported for fiscal years 1976 and 1977. These reports should be submitted in accordance with § 111.403. The reports submitted to the Office of Education for fiscal years 1976 and 1977. These reports should be submitted in accordance with § 111.403.

Answer: No. Regardless of whether the computation is made, the public and the local administration are not required to submit the section 110(a) (2) or the § 102(19) of the regulations address the calculation of the non-Federal share of the cost of education projects on a program-by-program basis.

Question No. 19: Must the State pay exactly 50 percent, at least 50 percent, or up to 50 percent on the priority programs in section 110 of the Act?
Answer: Yes. The State must pay at least 50 percent on the priority programs in section 110 of the Act (§ 104.301).

Question No. 20: May a State use local funds earmarked for local administration as part of the State's matching share for financial aid under section 111(a) (2) of the Act?
Answer: Yes. No. The State matching share must be earmarked for local administration, not local administration. The non-Federal share of the cost of local administration, however, may be generated at either the State or local level.

Question No. 21: May a State use tuition fees to meet the statutory matching requirements?
Answer: No. In accordance with § 110.86 of the Omnibus Education Reauthorization Act, tuition and fees collected by local education agencies may not be included as part of the Federal or non-Federal share of expenditures under any Federal program.

Question No. 22: Does the § 104.321 provision of maintenance of financial effort allow the State to use a per student basis one year and then change and use aggregated cost the next year?
Answer: Yes. The State may annually select either of the two bases.

Question No. 23: May the State use funds to support research activities in LERA?
Answer: Yes. The State must pay at least 50% of the figures reported for fiscal years 1976 and 1977. These reports should be submitted in accordance with § 111.403. The reports submitted to the Office of Education for fiscal years 1976 and 1977. These reports should be submitted in accordance with § 111.403.

Answer: No. Section 111 of the Act does not require a program-by-program matching by the State in programs under §§ 131, 131(a) authorizes the State to support a research coordinating unit (ROU) for research by the RCU itself or for contracts by the RCU for research. Thus, the RCU may enter into a contract with the LERA for research.

Question No. 24: Does the Act require the State to match funds for research, or for exemplary projects, or curriculum development projects, on a program-by-program basis?
Answer: Yes. Section 111 of the Act does not require a program-by-program matching because the provisions of section 131. Section 131(a) authorizes the State to support a research coordinating unit (ROU) for research by the RCU itself or for contracts by the RCU for research. Thus, the RCU may enter into a contract with the LERA for research.

Question No. 25: May an LEA use funds under § 104.772 to train and upgrade high school teachers to serve vocational education students better?
Answer: Yes. If the State chooses to use its funds for this purpose, it may operate this type of training in its approved five-year State plan and annual program plan for vocational education. Sections 104.772 and 104.773 of the regulations address this point.

Question No. 26: May a State use its vocational education personnel training funds to train interpreter-tutors to work with deaf students of vocational education?
Answer: This use of the funds would be allowable if it is set forth in the approved five-year State plan and annual program plan for vocational education.

Question No. 27: May an LEA use funds under part 4, Part B of the Act, "Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities" for new construction?
Answer: Yes. Section 101 of the Act is clear that this new program is for "modernization of facilities and the provision of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give ren-
Vocational Education Act. The regulation, asked for-

whether any group could be funded. However, it is intended to authorize the Commissioner of State and local officials. The phrase is not necessarily to be defined in the regulation. In section 104(a) of the Act, it was the intent of Congress to establish a mechanism to strengthen the planning function of the State board, rather than limit its authority. To achieve this, section 104(a) of the Act, the State board convenes the planning group, established by section 107(a) of the Act, for coordination of the development of the annual program plan and accountability report for at least four meetings during each fiscal year concerning the development of the five-year State plan. Although only representatives of the agencies, councils, and individuals identified in section 107(a) of the Act must participate in the decision-making activities of the planning group, the State board may invite any group or individual having an interest in vocational education. Section 107(a) of the Act requires that the State board hold public hearings to provide every interested person or group the opportunity to participate in the development of the five-year State plan. No change is made in the regulation.

§104.22 Responsibilities of the State board.

Comment. A commenter suggested that it may be misleading to list only the coordi-

nate responsibilities of the State board in §104.22 of the regulation. To correct this situation, it was suggested that the regulation be changed to read: "The State board's responsibilities shall include but not be limited to • • • ."

Response. Section 104.33 of the regulation follows very closely the language of section 104(a) of the Act which sets forth the (non-

mandatory) responsibilities of the State board. In order to ensure that the regulation provides a clear interpretation of the intent of Congress, the drafters of the regulation amended it to read: "The responsibilities of the State board include (but are not limited to) • • • ."

Comment. A commenter expressed the view that it was the intent of Congress to make the funding for the planning of the vocational education programs arise from the local educational level where the needs of the student are "best seen and cared for."

Response. Each local educational agency and postsecondary, educational institution that participates in the vocational education program submits an application to the State board. The State plan is formed, in part, from the applications which are submitted to the Department of Education. The requirement for adequate staffing by the State board is entirely appropriate.

§104.23 State board: Definition of the term "coordination."

Comment. Several commenters suggested that the regulation be amended to define the term "coordination." These comments also included: (1) If the responsibilities of the State board for coordination of the development of policy and the development of the State plans were intended to limit the authority of the State board, and (2) if the State board is to limit its coordination activities to the groups identified in clauses (A) through (E) of section 107(a) of the Act.

Response. In requiring the State board to coordinate the development of policy and the development of the State plans with the agencies, councils, and individuals identified in section 107(a) of the Act, it was the intent of Congress to establish a mechanism to strengthen the planning function of the State board, rather than limit its authority. To achieve this, section 107(a) of the Act, the State board convenes the planning group, established by section 104(a) of the Act, for coordination of the development of the annual program plan and accountability report for at least four meetings during each fiscal year concerning the development of the five-year State plan.
State structure, the number of personnel necessary) will be left to the States to make, changes in §104.75 of the regulation in an attempt to strengthen and clarify the activities under these sections. These changes are spelled out in more detail in the following comments and responses.

§104.72 "Employment/designation" of full-time personnel.
Comment. A commenter felt that the words "designation" and "assign" in §104.72 is not intended to indicate that current State agency personnel must be used to fill the positions under this section. There is no indication in either the Act or legislative history that such an interpretation is valid. In addition, the Joint terms suggested by the commenter ("employment/designation" and "employ/assign") are more meaningful in this context. However, in light of other comments received, further clarification appears necessary; therefore, the terms "designation" and "assign" in §104.72 is not intended to indicate that current State agency personnel must be used to fill the positions under this section.

§104.73 Full-time personnel/personnel working full time.
Comment. A number of commenters noted the difference between the language of the Act requiring "full-time personnel" and the language of the regulation requiring "personnel to work full time" on sex bias issues. Several of these commenters emphasized that the language of the regulation be changed. Others, however, have opposed a change on grounds that it might lead to hiring personnel to perform these functions on a less than full-time basis.

§104.74 Criteria for selection of full-time personnel.
Comment. Many commenters expressed the concern that, unless the definition of the full-time personnel be set forth by the regulation, the positions might be filled with personnel who might compound the bias problems. The criticism most often suggested was that the persons chosen for these positions have demonstrated their commitment to the elimination of sex bias in educational programs. Other qualifications suggested included knowledge of sex problems and issues, leadership capability, vocational education background, creativity, patience, and determination. Several of these commenters felt that the States should be required to advertise the position widely and to assure that it be open to all applicants. One commenter proposed that there be a selection committee to be made up of individuals with knowledge of sex bias.

§104.75 Minimum requirements for accomplishing "sex bias" functions.
Comment. The recommendation is accepted in part. The regulation will not prescribe specific criteria for the States to use in selecting the full-time personnel or other State personnel in the selection of other State personnel, the criteria will vary from State to State; however, a paragraph has been added that the States match the qualifications of the applicants with the responsibilities of the job.

§104.76 Definition of sex bias.
Comment. Several commenters expressed concern over the proposed definition of "sex bias." The difficulty stems from the statement that "as used in the Act and the regulations, sex bias includes sex discrimination." One commenter suggested that "sex stereotyping" was used in the regulations to clarify the definition. Several commenters suggested that "sex stereotyping" be added wherever "sex bias" is used in the regulations or that "sex stereotyping" be added to the final sentence in the definition on the use of "sex bias" in the Act and regulations. Still others favored discarding the proposed definition for a new one.

§104.77 Availability of information.
Comment. A commenter felt that the regulation should spell out the minimum requirements to accomplish the functions listed in §104.75. It felt that the full-time personnel would be responsible for the dissemination of information in fulfilling their responsibilities. Specific suggestions include development of a complete plan, a process, a structure or public information component, an annual report on the status of women in vocational education programs, and the use of the Title IX self-evaluation.

§104.78 Review of distribution of grants and contracts.
Comment. A number of commenters felt that review of the distribution of contracts as well as grants should be included in this function.

§104.79 Availability of information.
Comment. Several commenters recommended that the language of this subsection be changed to require the full-time personnel to make information developed pursuant to §104.75 available to the public. The groups listed in §104.75(h) through the State board rather than supplying the information to the board as well as to the other groups.
Response. The regulation is consistent with the Act that the information will be made available to the State board, the National and State Advisory Councils on Women, the State Commissioner on the Status of Women, the Commissioner, and the general public. In addition, making information available through Congress generally would be difficult. Therefore, no change is made in the regulation.

STATE ADVISORY COUNCIL

§ 104.91 State advisory council establishment.

Comment. Commenters pointed out that the regulation does not conform to the Act regarding the appointment of the State advisory council in the case of States in which the members of the State board are elected. The regulation refers only to the "State board" while section 105(a) of the Act uses the term "State board of education." Response. While this appears to be an inconsistency, the legislative history supports the reference to the State board designated or created by State law as the sole State agency responsible for the administration of vocational education in the State. In a great majority of the States, the State board is the only State agency also as the single agency for vocational education. There appears to be no reason for denying to an elected State board for vocational education the ability to make recommendations to the State advisory council. Therefore, the broader term "State board" is not changed in the regulation. 

§ 104.92 State advisory council membership.

Comment. Several commenters suggested that additional groups should be represented on the State advisory council. The additional group representatives suggested were: State planning agencies, adult education, homemaking, college career planning and placement services, State's agency on aging, and the planning and coordinating agency for postsecondary education.

Response. Since categories mandated by section 105 of the Act number twenty, many of which imply multiple representation, it appears excessive to require additional appointments thereby making the councils too large, unwieldy, and costly to operate under existing budgets limitations. Commenters urged us to consider interested groups, not directly represented by membership, through their evaluation and public hearing process. No change is made in the regulation.

§ 104.92(a) Women on State advisory councils.

Comment. Many commenters suggested that § 104.92(a) (17) include language to the effect that at least two women be required to fulfill the requirement. While the wording of the regulation is taken directly from the Act, it is clear that the Congress intended more than one woman to fill this category. Unless the regulation is so stated, there is danger of misrepresentation at the State level.

A commenter also recommended that the phrase "one or more persons" used in the sentence to minimize the possibility of being changed to "women," which is the statutory language.

Response. The regulation relating to the change in wording of § 104.92(a) (17) from "one or more persons" is accepted. Although a number of categories listed in this regulation words, the determination of the actual number necessary for each category should be left to the appointing authority rather than have the regulation specify an exact number. Specifically, in the case of category (17), whether one or two women are appointed may depend on the number of women already appointed to the State board. Commented, however, encourages the State to appoint at least two women to fulfill the requirement in order to reflect effectively the diverse membership, the National and State Advisory Councils, with the Act which states that the information obtained to meet the requirements of the Act, the statement makes clear that additional groups should be represented.

Response. Section 112(b) of the Act says that the State shall "consult" with the council and that the council shall "assist" the State in developing the plans. Since the regulation was written so that two women be appointed, it is intended to "assist" in relation to assisting the State board, no change is made in the regulation.

§ 104.93 Liston with State Advisory Panel for Handicapped.

Comment. Two commenters suggested a function of the State advisory council on vocational education in the State, requiring "appropriate liaison and coordination activities with the State Advisory Panel for the Handicapped.

Response. It is agreed that to insure consistency in planning and program implementation, liaison and coordination between the two agencies is essential. However, as a result of the Technical Amendments, §104.93 (17) has been amended to include "special technical personnel be required to be assessed for its part in the consistent, integrated, and coordinated approach to meeting the employment and training needs of the State, multicultural, along with the required representative of the handicapped on the State advisory council is intended to insure the consistency shall be made in the regulation.

§ 104.93(a) Council certification.

Response. A commenter requested the deletion of the last sentence of §104.93(a) since the approval of the certification is made by the council representative in §104.171(b)(2).

Response. In addition to the certification by the council representative the opportunity to participate in the planning process, the council itself must be consulted on the certification. Thus, the council has a two avenues for involvement in the planning; with the latter being a greater commitment than that afforded other agencies. Since this procedure is statutorily mandated; no change is made in the regulation.

§ 104.93(d) State board evaluation.

Comment. A commenter objected to the word "assist" and stated that the law used the word "consult."


\section*{RULES AND REGULATIONS}

\section*{LOCAL ADVISORY COUNCILS}

\section*{§ 104.111 Local advisory council—representatives of additional groups.}

\section*{Comment.}

Many commenters suggested broadening the categories of membership required as appropriate so that the categories would be similar to the categories required of membership on the State advisory council. The Act required the addition of representatives of specific categories. Specific categories mentioned were: categories (17), (18), (19), and (20) described in \(\text{§} 104.95(3b)\) in relation to the State advisory council; women, racial, ethnic, or major language minorities; private school persons knowledgeable in vocational education (but not administration; manpower services; local prime sponsor councils; and the State agency responsible for data collection; and community based organization. Commenters particularly recommended that the phrase "shall be of the council's general public" be interpreted to include appropriate representation of women and minorities.

\section*{Response.}

The recommendations have been accepted in part. Since one of the main purposes of the Act is "to overcome sex discrimination and sex stereotyping in vocational education" and to "furnish equal educational opportunity", the Commissioner will require that an appropriate representation of women and minorities be represented on the local advisory council.

\section*{§ 104.111(b) Local advisory council establishment.}

\section*{Comment.}

A few commenters asked whether the regulation governing the establishment of local councils precludes the possibility of LEAs establishing local advisory councils on a regional basis with other LEAs. In the same connection, some commenters asked whether one council may serve more than one eligible recipient.

\section*{Response.}

Section 104.111(b) of the regulations is based on section 100(g) (1) of the Act which provides in part that "local advisory council representatives, for program areas, schools, communities, or regions, whichever the recipient determines best to serve its purpose and objective." The eligible recipient, therefore, has the option to establish a local council which also serves another eligible recipient in the same geographical region of the State. For example, an LEA and a community college in the same region may decide to establish local councils which either serve a particular area or serve a specific group of recipients. According, no change is made in the regulation.

\section*{§ 104.111(d) Craft committees.}

\section*{Comment.}

A commenter pointed out that the regulation implies that only advisory assistance craft committees to each vocationally-funded teacher is considered essential to insure an effective instructional program.

\section*{Response.}

There is no intent to diminish the importance of craft committees. In fact, by making reference in the regulation to "representatives from some source", the regulation assumes that craft committees are in existence and will be kept. No change is made in the regulation.
ment on the State Occupational Information Committee (SOICC), on the establishment of SOICC.

Response. The recommendation is accepted. Although the regulation does not include the governing NOICC and SOICC, or other rules governing internal Federal organization, SOICC is described, and for consistency SOICC is also described. A new § 104.121 on NOICC has been added.

STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

§ 104.121 Fiscal agent for State Occupational Information Coordinating Committee.

Comment. Several commenters recommended that the regulation identify the fiscal agent for the State Occupational Information Coordinating Committee (SOICC). Some of the commenters suggested that the State board for vocational education should be the fiscal agent. One commenter suggested that the Governor should appoint the agent.

Response. The regulation, as written, does not state who the fiscal agent shall be. NOICC, when making funds available to SOICC, may require the establishment or naming of a fiscal agent. No change is made in the regulation.

§ 104.121 State Advisory Council involvement with State Occupational Information Coordinating Committee.

Comment. A commenter, noting that a representative of the SAGE is not named in section 161(b) (2) of the Act as a member of the SOICC, recommended that the regulation require SAGE involvement in the development of the State's occupational information data system which SOICC will develop. SAGE will use.

Response. The Act (section 161(b) (2)) and the regulation (§ 104.121(b)) set forth the required membership of SOICC. SOICC will officially be made up of representatives of only the four-agencies named. Additional involvement with individuals and agencies may take place. No change is made in the regulation.

§ 104.121(c) Representatives on State Occupational Information Coordinating Committee.

Comment. A commenter suggested that the Governor, rather than the respective agency, should appoint the agency's representative. Another commenter suggested that staff represent the State Manpower Services Council rather than a member of the council. Another recommended that the chief executive officer be the representative. Others suggested that the Governor should appoint additional members such as representatives of the CETA prime sponsor, guidance and counseling personnel, and career education personnel.

Response. Section 161(b) (3) of the Act states that SOICC shall be composed of a representative of each of four designated State agencies § 104.121(b) carefully follows the Act. In paragraph (c) it is stated that the "representatives shall be selected by the respective State board, agency, or council..." The interpretation is the proper interpretation of the word "representative," i.e., a person chosen by the group he or she represents. The Commissioner also believes that the representatives of the four designated groups should make up the entire voting membership of SOICC. The State might, however, appoint other observers or non-voting members. Therefore, no change is made in the regulation.

GENERAL APPLICATION

§ 104.141 General application amendment.

Comment. A commenter questioned the provision in § 104.141 of the Act that amendments to the general application be made only if and when "provisions of section 161 of the Act are changed or expire." For example, it was suggested that if a State changes its fiscal control and accounting procedures under section 104.5, that amendment be reflected by amending the general application.

Response. The assurances are comprehensive in coverage and oblige the State to adhere to the provisions of the general application in the future. Hence any change in procedures by a State would also be subject to compliance with the Act. No change is made in the regulation.

§ 104.141(e) Procedures to carry out assurances.

Comment. A commenter stated that the procedures to be included in the five-year State plan for assurances 4, 5, 9, and 10 are not mentioned. It is suggested that the requirement is inconsistent and arbitrary since procedures are not required for other assurances. The commenter suggested that the requirement be deleted.

Response. Section 109 requires determinations by the Commissioner that adequate procedures exist "to insure that the assurances of the general application" will be carried out. Accordingly, it was determined that assurance 9 requires a description of procedures in order for the Commissioner to approve a plan as being in compliance with the law. No change is made in the regulation.

§ 104.141(f) (4) (A) Consultation with Prime Sponsor.

Comment. A commenter recommended a revision of § 104.141(f) (4) to include a representative of prime sponsors in those areas where there is a prime sponsor.

Response. Section 104.141(f) (4) (A) provides that the annual application be developed in consultation "with representatives of the educational and training resources available in the area." Prime sponsors are not specifically named, but are certainly recognized as a training resource and should be consulted. No change is made in the regulation.

§ 104.141(f) (5) Consistency with the Handicapped Act.

Comment. A commenter suggested the addition of "(O) have the State vocational education plan be fully consistent with the State plan under the Education for All Handicapped Children Act of 1975 and the Federal regulations thereunder." The Act and requires that funds used for programs for the handicapped be consistent with the state plan under the Education of All Handicapped Children Act, which includes the Education for All Handicapped Children Act and the regulations under that Act. Therefore, the plan is consistent. Also, a new regulation, § 104.5 has been added which cross-references the requirements in Part B of the Education of the Handicapped Act. States would need to provide the relevant regulatory promises in 45 CFR Part 112a since these regulations provide the specific rules which govern the expenditure of Federal vocational education funds for handicapped children within the State.

§ 104.141(g) (Renumbered § 104.141(f) (11)) Assurance of cooperation with NCES.

Comment. Several commenters suggested that the assurance in § 104.141(g) be deleted since there is an inconsistency with the assurance in § 104.141(f) (3) which requires the furnishing of information to the Commissioner.

Response. It was contended that the Administrator of the National Center for Education Statistics (NCES) should get any information needed from the Commissioner. One commenter indicated that this assurance is a duplication and, in fact, may cause great confusion in terms of the report that is collected. Two of the commenters suggested the regulation was so stringent that the Act in using "shall assure" rather than the Act language "shall cooperate."

Response. Section 161(a) places responsibility for operating the national vocational education data reporting and accounting system on the Commissioner. NCES, after jointly developing with the Commissioner the information elements and uniform definitions. Accordingly, the Commissioner believes it is essential that the assurance be included to ensure that the State will cooperate with NCES in supplying the data jointly agreed to be collected by the system. No change is made in the regulation.

§ 104.141(b) (Renumbered § 104.141(f) (12)) Indian participation.

Comment. Several commenters questioned the inclusion of the assurance in § 104.141(b) since this is not contained in the law and suggested it be deleted. Other commenters proposed revised language for clarification that the State cooperate with NCES in supplying funds directly to Indian tribal organizations.

Response. Because of the potential for excluding Indians from the regular vocational programs, the recommendation for revision is accepted and the assurance in § 104.141(f) (12) will now read:

"The State board shall also assure that students served by Indian tribal organizations applying for or receiving funds under the Commissioner's discretionary programs, under the authority of section 103(a) (1) (B) of the Act, shall be afforded the opportunity to participate in vocational education programs administered by the State."

DEVELOPMENT OF FIVE-YEAR STATE PLAN

§ 104.101 Development of five-year State plan.

Comment. A commenter recommended that consideration be given to more appropriate planning and management procedures. The opinion was expressed that the planning process was too rigid, that learner-oriented goals for vocational education should be used instead of goals based on employment needs. Further, if the legislation stressed what outcomes are desirable, States could use their own discretion as to how to achieve these outcomes.

The same commenter recommended that every effort be made to secure additional funding for planning and evaluation purposes before it is completely outdated, and the representatives involved in the planning group.

Response. The language of the regulation continues to cause the assurance process follows closely the Act. The State may, of course, employ planning procedures beyond those specified in § 104.101 as long as these requirements are met. The manner of changing the planning procedures and obtaining additional funding must receive the appropriate legislative process. No change is made in the regulation.
§ 104.101 Time for development of a model plan.  
Comment.  Several commenters indicated that the period of time developed for the State's total effort in vocational education plans is too short. One commenter suggested that the five-year State plan be revised by July 1, 1978, on a one time basis, since a year of experience is needed for the initial plan. The deadline for the initial plan will make it difficult for States to prepare a model plan by July 1, 1977. The Commissioner has no authority to waive the requirement of a complete five-year State plan by July 1, 1977. While States may not be able to develop an exemplary plan initially, the minimum requirement must be met. It is anticipated that States may wish to make amendments to improve the plan during the first year. In addition, the updating procedures in the annual program plan provide a mechanism for change and improvement of the five-year State plan. No change is made in the regulation.

§ 104.102 Local Educational Agency (LEA) input to State plan.  
Comment.  A commenter suggested that, while use of a representative group for planning is a good procedure, input and data from local agencies and the State educational agency should be used as the key basis for formulating the State plan.  
Response.  While not specifically so outlined, Sections 107 and 108 of the Act rely heavily on input and data from eligible recipients in formulating both the five-year State plan and the annual program plan. The plans in fact constitute an aggregation of the State's total effort in vocational education, and each group is eligible recipients for this date. No change is made in the regulation.

§ 104.103 Appointment authority for selecting representatives.  
Comment.  Commenters objected to the requirement that the appointing authority under State law designate the representatives for § 104.102(e), a local school board; § 104.102(f), vocational education teachers; and § 104.103(g), local school administrators. These objections were based on the commenters' interpretation that these appointments might be political appointments by the Governor. These commenters expressed a preference for a requirement that each of the agencies appoint its own representative.  
Response.  The language of the Act reads: "as determined by State law." This language was subject to interpretation and was construed to provide an appointing authority in the State. Accordingly, the language "as designated by the appropriate appointing authority, under State law," as added to § 104.102(e) through (g) to assign the responsibility for appointing these three representatives to the individual or State agency (i.e., the Governor or the State board) having authority to make appointments under State law. No change is made in the regulation.

§ 104.104 Representation on planning group.  
Comment.  A number of commenters suggested additions and revisions for their inclusion in the development of the five-year State plan. The list included: Four-year institutions of higher education, State educational agency responsible for education programs for the handicapped, State agency on aging, State's office of higher education, the vocational rehabilitation program, and State Commission on the Status of Women.  
Response.  The Commissioner agrees with the need for membership on the planning group. It is inappropriate for the regulation to require additional representation on the planning group beyond the representatives of the ten groups specified in Section 107(a)(1) of the Act. States may involve other groups and other groups it wishes to include in the planning process; however, only those ten groups designated by the Act may appoint the decision-making group. Other groups are encouraged to provide input either directly to the planning group or through the public hearing process. No change is made in the regulation.

§ 104.105 Number of representatives on the planning group.  
Comment.  Two commenters raised the question of whether it would be appropriate for a State to have participants other than the ten representatives specified in section 107(a)(1) of the Act in the decision-making process regarding provisions of the State plan.  
Response.  While representatives of other categories specified in section 107(a)(1) are not provided for in the regulation, only one designated representative from each of the ten groups specified in section 107(a)(1) of the Act must be involved in the approval of the provisions of the five-year State plan or the annual plan. No change is made in the regulation.  
§ 104.106 Appointing authority for selecting representatives.  
Comment.  A commenter asked if it is possible for the State board to design the membership of the planning group in such a way that the State educational agency personnel constitute a majority of the voting membership. This commenter also wanted to know whether the State board may appoint several persons for each category or if it is limited to only one representative for each.  
Response.  Although there is no requirement that each representative to the planning group have a vote, the responsibility for decision-making regarding approval of the provisions of the State plan be limited to one designated representative from each of the ten categories specified in section 107(a)(1) of the Act. One person may represent more than one of the ten categories if the agency he or she represents has responsibility in more than one of the designated areas. No change is made in the regulation.

§ 104.107 Representaatives of vocational teachers.  
Comment.  A commenter recommended that "including guidance specialist" be added after "vocational education teachers" in § 104.107(f). Another commenter recommended that the regulation preclude supportive staff being included in the vocational teacher category.  
Response.  While certain guidance personnel may be considered vocational education teachers, it is necessary to include them in the Act in requiring the inclusion of such personnel. The Commissioner believes the State law will determine which supportive personnel the individual or State agency (i.e., the Governor or the State board) having authority to make appointments under State law. No change is made in the regulation.

§ 104.108 Representation on planning group.  
Comment.  Concerning the inclusion of rejected recommendations in the State plan, a commenter suggested that the regulation should require only a summary of the recommendations rejected and the reasons for rejection rather than the original correspondence and any primary data.  
Response.  Section 104.108 requires only a listing of the rejected recommendations, the individual, agency, or council making the recommendation and the reason for rejection. The Commissioner believes the information listed is adequate to substantiate the inclusion of a recommendation and should not result in a voluminous data requirement. No change is made in the regulation.

§ 104.109(b) State board adoption of State plan.  
Comment.  One commenter recommended that the phrase "as determined" be changed to read, "Any recommendation which is rejected by the State board indicating its source," rather than "and its source."  
Response.  This change in language will clarify the requirement that the State board specify the particular agency making the recommendation.

§ 104.110 Public hearings.  
Comment.  Several commenters objected to the phrase "Prior to adoption" in § 104.110(a) because it seems to compromise significantly the entire purpose of public hearings on the plan. In their view, the regulation permits a State to conceive, develop, and draft the plan without any significant input from the public. Their further contention is that the plan, once drafted, would not likely be changed. It is suggested that the phrase be changed to read: "Before the plan is written."  
Response.  The recommendation is accepted in part. The opportune time to hold public hearing is during the period of the plan's development. Accordingly, it is suggested that the change be required to require the "hearings during the development, prior to adoption." If public hearings were held prior to the preparation of an initial draft, it would be difficult for the public to provide any meaningful direction since there would be no framework to guide public discussion. Public input can be most important after there is a draft of the plan; however, the State must hold public hearings before there is a first draft or at any stage during the development of the plan when input may be useful.

§ 104.110(a)(3) Public hearings by region.  
Comment.  Commenters requested a definition of "all regions of the State." A few commenters suggested that several regions be developed so that the State may choose from among them. Definitions suggested include (1) commonly recognized geographic divisions, (2) quadrants, and (3) areas feeding vocational-technical schools.  
Response.  Since most States have recognized regional divisions, it would be preferable to leave to the State how to define its regions and how best to serve the population. The opportune time to hold public hearings in the respective regions with regard to holding public hearings. No change is made in the regulations.

§ 104.110(c) Public views included in State plan.  
Comment. A commenter suggested that, because of the volume of paperwork involved in including all views expressed at the public hearings in the State plan, only a summary of those views be included along with an explanation of how the State board plans to consider these views.  
Response.  Provisions of §§ 104.110(e) and 104.111(d) are intended to require inclusion of a summary of the views expressed at the public hearing and written comments submitted rather than letters, statements, and other primary data. Also to be included are the reasons for rejecting those views not included as part of the plan. No change is made in the regulations.

§ 104.110(c)(3) Public hearings.  
Comment.  A commenter recommended that the phrase "accepted for inclusion" be substituted for the term "included" in line 2 of § 104.110(c)(3).  
Response.  No change is made in the regulation.
Response. The recommendation is accepted. The revision will provide greater clarity to the State board's responsibility of setting forth the reason for rejecting any view submitted. The regulation is changed to read; "The reasons for rejecting any view which is not accepted for inclusion in the five-year plan, as well as the specific reasons for rejection." \[104.171\] Certification of plans.

Comment. A commenter recommended that this regulation include a paragraph which states: "The approval of an application under this part does not relieve an applicant of the responsibility to carry out its project or projects in accordance with the general plan, the statute, and the applicable regulations." The commenter felt this paragraph was necessary because the State board might consider compliance with certification requirements tantamount to approval by the Commissioner and write its plans accordingly.

Response. Section 104.171 requires a number of certifications regarding the State plan but does not serve as a guide for preparing the plan. Specific requirements for the content of the five-year State plan are set forth in §§ 104.181 through 188, and these detailed requirements must be adequately described before they will approve a plan. No change is made in the regulation.

\[104.171\] Number of certifications required.

Comment. A few commenters suggested that many more certifications are required by the regulation than are mandated by the Act. A few felt that the signatory function of each representative on the planning group required in § 104.171(b)(2) goes beyond the law and could be embarrassing to some of the signers.

Response. The inclusion of additional certifications in § 104.171 is intended to clarify statutory requirements necessary for compliance. By signing the certification required in § 104.171(b)(2), each representative on the planning group merely certifies that he or she had the opportunity to take an active part in formulating the plan. No change is made in the regulation.

\[104.181\] Guidelines.

Comment. Several commenters requested that the Office of Education reconsider the issue of promulgating separate guidelines for State plans. They expressed concern that, in fact, the proposed regulations are not precise, particularly with regard to State plans and State administration. They fear that plans will be more or less the same regardless of the law. Concerned especially to this need to have State plan sections dealing with elimination of sex bias and sex stereotyping, which are evaluated by persons with special knowledge of these issues.

Response. Public response to the Notice of Intent was divided on the issues of the need for additional guidelines. The Commissioner concluded that it was preferable not to issue separate guidelines, but rather to issue regulations which specify precisely what is required by the Act. With respect to the statutory requirements, the States will have considerable latitude in determining how to meet the requirements of the Act and the regulations in the development of the State plan. Regarding the review of the plan, particularly in the area of sex bias and sex stereotyping, that review is one of the functions of the full-time personnel to determine, on a sex basis listed under § 104.176, and § 104.171(g) requires that this personnel certify that they have had an opportunity to review the plan. No change is made in the regulation.

\[104.182\] Procedures to assure compliance.

Comment. A commenter felt that the regulations have an inordinate number of very specific requirements which would, in effect, reduce the flexibility of the Act. The procedures to assure compliance contained in § 104.182 are deemed necessary by the Commissioner as a minimum to comply with section 109(a)(1) of the Act. No change is made in the regulations.

\[104.182\] Additional procedures.

Comment. A commenter suggested that the State Commissioner on the Status of Women in each State be designated as the agency to review the compliance procedures and to make a public statement as to the degree of progress relative to the elimination of sex role stereotyping.

Response. Although the State Commission on the Status of Women is encouraged to study the progress being made within a State to eliminate sex bias, there is no legal basis for requiring the Commissioner to monitor compliance procedures in the State. The personnel working to eliminate sex bias, under § 104.72, must review State plans and State programs, particularly for elimination of sex bias and sex stereotyping. The Commissioner may work with this personnel in this capacity, as is provided in § 104.76. Also, the Commissioner may provide input annually to the State board through the public hearing process. No change is made in the regulation.

\[104.182(f)\] Consistency with Handicapped Act.

Comment. Two commenters recommended that the reference in this section to "child" be changed to refer to "student" since it includes not only children but adults as well.

Response. Section 106(a)(10) requires that: "The use of funds for the handicapped under section 110(a) of the Act be consistent with section 613 of the Education of the Handicapped Act. Section 613 requires an individualized educational program for handicapped children in certain age ranges and does not apply the provisions for younger age groups. Accordingly, this section is consistent with the Handicapped Act, and to make clear that the applicability is to children, not adults, it is appropriate to refer to "child" rather than "student." No change is made in the regulation.

\[104.182(f)\] Additional citations.

Comment. A commenter suggested that the applicability of Section 504 of the Rehabilitation Act of 1973 be specified. Another commenter suggested that "and the Education for All Handicapped Children Act of 1976" be added to the last sentence of § 104.182(f).

Response. The correct citation is the Education of the Handicapped Act, which was amended by the Education for All Handicapped Children Act of 1976. With respect to the applicability of Section 504 of the Rehabilitation Act of 1973, the Department promulgated final regulations on May 4, 1977, at 42 F.R. 22676. This regulation, which applies to all recipients of Federal assistance from HEW, including State Departments of Education and local educational agencies receiving vocational education funds, is intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap.

\[104.183\] Assessment of employment opportunities.

Comment. A commenter requested that the assessment of current and future needs for workers specify workers "of all ages." The respondent is of the opinion that specifying the need for workers by age, it does not seem appropriate to go beyond the State's responsibility in mandating these data. Further, it is doubtful whether the data are readily available. No change is made in the regulation.

\[104.184\] Limitation to four specified elements.

Comment. A commenter suggested that § 104.184 limits unduly the flexibility of the plan and recommended that the words "at least" be added after "of" in the first paragraph. The regulation would then read: "This description shall be in terms of at least the following four elements:...".

Response. The State may include in the plan any information it desires beyond that specified in the regulation as long as mandated requirements are met. Therefore, the State may describe its goals in terms of additional elements beyond the four elements specified. No change is made in the regulation.

\[104.184(c)\] Allocation of funds by institution.

Comment. A commenter recommended that the regulation be changed to read "within various type of institutions" instead of "various institutions." Other commenters felt that reporting program allocations by school districts would result in too much detail.

Response. The first recommendation is accepted. The added language will clarify the intent of the regulation. In response to the second comment, only the annual program plan includes the proposed distribution of funds listed by eligible recipient and is mandated by section 108(b) of the Act. The five-year State plan includes allocation of funds by various types of institutions.

\[104.184(c)\] and (d) Inclusion of CETA as an institution.

Comment. A commenter suggested including CETA in "among the various institutions of the State."

Response. The provision for coordination with CETA is set forth in § 104.182. Furthermore, CETA is not an institution, and the Act provides no authority for including it with "various institutions of the State." No change is made in the regulation.

\[104.185(a)\] Meaning of "as precisely as possible.

Comment. A commenter asked what the phrase "as precisely as possible" means and asked if each State is to make its own interpretation. Another commenter suggested the deletion of the words "as precisely as possible" from the phrase in order to clarify the meaning.

Response. The recommendation to delete "as possible" from the phrase is accepted. Section 104.185(a) will read: "set forth precisely." In light of this modification, the term does not appear to need further interpretation.

\[104.185(c)\] Special needs of older people.

Comment. A commenter suggested that § 104.185(c) specify that some plan must set forth funding to meet the special needs of older people, including persons over 65 years of age.
§ 104.186(d) Matching set-aside funds.

Comment. A commenter recommended that paragraph (d) of § 104.186 be deleted, since neither Section 107 nor Section 110 of the Act requires State and local matching funds for this purpose to be included in the five-year State plan. It was suggested that documentation regarding the matching requirements be included in the accountability report.

Response. While the matching of funds for the national priority programs is not specifically required in Section 107 of the Act, nor in the accountability report, it is essential to include this information in order to provide a complete plan of all Federal, State, and local funds. It should be noted that the amendment permits the States to request, as a result of the plan, to develop and match funds for activities which may not directly influence the reduction of sex stereotyping. Commenters requested that a reference to "both men and women" be added to the sentence following "to ensure equal access." The amendment was not appropriate for the regulation to require quotas for enrollments in vocational education programs. The States are required to set forth in detail their plans and procedures for ensuring equal access. Although some States may apply a system of quotas as part of these procedures, it is not mandated by the regulation. No change is made in the regulation.

§ 104.187(a) Time for planning.

Comment. A commenter objected to including the requirements of § 104.187(a) in the State plan due to July 1, 1977, since funds are not yet available for the persons who will do the work.

Response. The Commissioner is not authorized to waive this requirement for the initial year of the legislation. Although it is probable that, when in place, the full-time personnel to eliminate sex bias will be working on this section of the plan, there is no requirement in the Act regarding who will develop the section of the plan. Commenters should be encouraged to develop the best possible State plan in the limited time available and account accurately to the requirements of the Act. The five-year State plan may be improved through the annual program plan updating or by another time the year. No change is made in the regulation.

§ 104.187(a) (9) (ii) Sex stereotyping.

Comment. A commenter suggested that § 104.187(a) (9) (ii) be changed to read: "Develop sex stereotypes in training for all occupations," rather than "to reduce sex stereotyping in all occupations." The recommendation is accepted. While vocational education programs may not directly influence sex stereotyping in all occupations, developing model programs which prepare persons of both sexes for occupations may have a positive impact on reducing sex stereotyping in occupations. Accordingly, inserting "in training for and placement in all occupations" will assure that the program proposed by the eligible recipient will focus on the reduction of sex stereotyping.

§ 104.222 Five-year State plan update.

Comment. Two commenters requested clarification regarding the yearly update of the five-year State plan. It was suggested that the five-year plan would stand as it is submitted. This annual program plan will update any obsolete or inaccurate information in the five-year State plan relating to employment needs and goals for meeting these needs. The annual program plan will also include a more detailed description of how the funds proposed in the five-year State plan will be used and any changes in funding proposed, along with the reasons for these changes. No change is made in the regulation.

§ 104.222 Five-year State plan update.

Comment. A commenter suggested that reference to §§ 104.183 and 104.184 be included in § 104.221. The commenter also felt that the requirement to include the annual program plan in the NPRM. Section 104.231 is rewritten to include a reference in the second line to §§ 104.183 and 104.184. In response to the second suggestion, the comment was that the requirement be deleted.

§ 104.231 Review of plans by full-time personnel to eliminate sex bias.

Comment. A few commenters suggested that the full-time personnel to eliminate sex bias certify that they are familiar with the Act and recommendations on the State plan in addition to certifying that they have been afforded an opportunity to review the plan.
Comment. A commenter asked if criteria will be developed to assist the Commissioner in determining that the State has set forth adequate procedures to carry out the requirements and the provisions of the plan. The requirements of §104.182 through 104.218 and §104.221 through 104.281 are detailed enough to provide adequate criteria on the basis of which the Commissioner can either approve or disapprove a State plan. Therefore, it is unnecessary to specifically provide for the consideration of the content of the plan. It is recognized that all States may not have the full-time personnel employed until October 1, 1977; nevertheless, it is the responsibility of the State to assure that the plan is in compliance with the Act. No change is made in the regulation.

Comment. A commenter asked if the certification did not include course enrollment by race and sex. It was contended that the report would be inadequate if it reports race and sex data without cross-tabulating them.

Response. To reduce duplication of reporting, the accountability report is not required to include program enrollment data by race or sex. Types of data will be supplied in the vocational education data system developed under section 161 of the Act. The data, therefore, are available to the State and may be included in the accountability report if desired. No change is made in the regulation.

Comment. A commenter asked clarification of §104.271(b) providing that the Commissioner will not disapprove a State plan solely on the basis of the distribution of State and local expenditures. The commenter asked whether sections of the Act are covered by this provision.

Response. Since there is no legislative history to indicate otherwise, it is assumed that §104.271(b) applies to all State and local expenditures for vocational education. Therefore, no change is made in the regulation.

HEARINGS BEFORE THE COMMISSIONER ON AGENCY OR COUNCIL CHALLENGES TO THE FIVE-YEAR STATE PLAN OR ANNUAL PROGRAM PLAN

§104.251 Cost of appeal to the Commissioner.

Comment. A commenter suggested that the cost of an appeal to the Commissioner should be borne by the agency bringing the appeal, particularly the cost of travel of the agency's representative.

Response. The cost principles governing the educational State-administered program are contained in Appendix B to 45 CFR Parts 100-106. These principles provide that a cost of the grant program may be reimbursed with Federal funds where the costs are necessary to obtain the services of a hearing officer, in accordance with this provision, if the costs of the hearing officer are furnished by the State's Attorney General or staff, the costs would be unallowable because these attorneys would be discharging their general responsibilities. If one of the State agencies, however, retains private counsel because of a conflict of interest situation arising due to the State Attorney General representing two State agencies in an action, it should be noted that such attorneys are allowable as a bona fide State administrative expense.

With respect to the legal expenses incurred during a section 107(a) appeal to the State agencies to the Commissioner, Item 10 in Appendix B (45 CFR Parts 100-106a) is controlling. In accordance with this provision, if the legal services for the appeal are furnished by the State's Attorney General or staff, the costs would be unallowable because these attorneys would be discharging their general responsibilities. If one of the State agencies, however, retains private counsel because of a conflict of interest situation arising due to the State Attorney General representing two State agencies in an action, it should be noted that such attorneys are allowable as a bona fide State administrative expense.

Comment. A commenter suggested that the full-time personnel wish to comment the full-time personnel wish to substitute an endorsement of the plan. Another commenter felt that it should be stated that the certification did not necessarily constitute an endorsement by the agency bringing the appeal.

Response. A commenter stated that the full-time personnel wish to substitute an endorsement of the plan. Another commenter felt that it should be stated that the certification did not necessarily constitute an endorsement by the agency bringing the appeal.

Comment. The Act (section 101) as to the hearing officer, as it was interpreted by the Court of Appeals in the case of Consolidated Edison Co. vs. National Labor Relations Board at 303 U.S. 197, 229 (1933). This definition of "substantial evidence" has been used by the Commissioner in determining that the State has set forth criteria so that interested parties will know the point in not setting out objective criteria. No change is made in the regulation.
RULES AND REGULATIONS

board" may appeal to the Court of Appeals.

Response. The regulation is amended to use the exact language of the Act. The only
appeal to the courts must depend on the language of the Act, not upon different lan-
guage in the amendment. The House Report
(H. Rept. No. 94-1085, p. 36) states: "After
the Commissioner makes this determination, any dissatisfied agency or State board (but
not the Federal Government) on vocational education or the State Manpower Services
Council) may appeal the Commissioner's deci-
dion to the Court of Appeals.

FISCAL REQUIREMENTS

§ 104.301 Zero-based budgeting.

Comment. A commenter, after pointing out that zero-based budgeting forces pro-
grams to analyze periodically their goals and
objectives, to evaluate results regularly, and to
spotlight duplication of effort, recom-
mended that the regulation require zero-
based budgeting by both Federal and State
programs.

Response. In keeping with the general
practice that the regulations do not regulate
internal Federal matters, a statement that the
Office of Education shall use zero-based budgeting is not set forth in the regulation.
As to the States, a requirement in the regu-
lation that States adopt zero-based budgeting would interfere unduly in the States' own administrative matters. Therefore, no change is made in the regulation.

FEDERAL SHARE

§ 104.301(d) Matching in-kind.

Comment. A commenter asked whether the
prohibition against using in-kind con-
tributions to meet the matching and main-
tenance of effort requirements applies to both State and local levels.

Response. Section 104.301(d) provides that
only actual expenditures of State and local funds shall be accepted as part of the
State's matching and maintenance of effort
requirements. This means that the prohibi-
tion against the use of in-kind contribu-
tions applies to both State and local levels.
No change is made in the regulation.

§ 104.302 Distribution of funds for men and
women.

Comment. A commenter suggested that the
distribution of Federal funds should be
continued to ensure the availability of
funds to men and women is equal.

Response. The Commissioner is prohibited by
section 104.302 of the General Education
Provisions Act from imposing a funding distribution method different from
that specified in the law authorizing the appropriation. Since the Act contains no
provision. Section 104.303 of this regulation
is based directly on this statutory provi-
sion. Section 421A(c) (2) (B) of the
General Education Provisions Act (the
Cranston Amendment) prohibits any funds to be
apportioned, allocated, or otherwise distrib-
uted in a manner that is not specified by any method differ-
ent from that specified in the Act. Accord-

ingly, no change is made in the regulation.

§ 104.303 Matching for national priority
programs.

Comment. Many commenters recom-
mended that the 50 percent matching re-
quirement for programs for the handi-
capped and disadvantaged as set forth in
§ 104.303 be reconsidered. These commenters
have stated that Federal funds are needed for the State and local school districts to pay 50 per-
cent of the cost of these programs when they are already providing, vocational educa-
tional assistance at such a high percentage.
To expect State and local programs to ad-
here to these matching requirements when
the proportion of Federal funding is so small
is unrealistic.

Response. Section 110 of the Act provides that Federal funds may be used to pay
up to 50 percent of the excess of programs, serv-
ices and activities for handicapped and dis-
advantaged persons. Section 104.303 of the
regulation is based directly on this statutory
provision. Section 421A(c) (2) (B) of the
General Education Provisions Act (the Cran-
ston Amendment) prohibits any funds to be
apportioned, allocated, or otherwise distrib-
uted in the manner that is not specified by any
different method from that specified in the Act.

Accordingly, no change is made in the regulation.

§ 104.312 Minimum percentage for the
disadvantaged.

Comment. A commenter suggested that
requirements for federal programs for the
Handicapped, as amended by the Edu-
cation for All Handicapped Children Act of 1975, totaled 94–420, mandates that each In-
dividual handicapped person be served in the
"least restrictive environment," the regu-
lations should require the inclusion
§ 110(a) funds to the maximum extent
possible to assist handicapped persons to
participate in vocational education programs
in the "least restrictive environment.

Response. Section 912 (s) of Pub. L. 94–420
requires the State to establish procedures to
 assure that special classes or other removal
of handicapped children from the regular
educational environment occurs only when
the nature or severity of the handicap is
such that education in regular classes with
the use of supplementary aids and services
cannot be achieved satisfactorily. Since
funds used for the purposes of section 110
(a) of the Vocational Education Act must be
consistent with the standards in effect for
vocational programs.
No change is made in the regulation.

§ 110(a) of this regulation.

§ 104.314 Postsecondary and adult
programs.

Comment. The Commissioner is prohibited by
section 110(a) of the Act from supple-
menting the Federal share of funds for post-
secondary or adult programs.

Response. Section 110(a) of this regulation.

§ 104.314 is correct, no change
is made in the regulation.

§ 104.315 Minimum percentage for the
disadvantaged.

Comment. Many commenters expressed
concern over the implementatio

§ 110(a) and the overview of the regulations in
the Notice of Proposed Rulemaking. Section
104.315(a) provides that the State shall
pay "at least" 50 percent of the section
102(a) allotment for the disadvantaged. The overview of the regulations at 42 FR 10553
states that the percent is 61.

Response. The statement contained in the
overview concerning the minimum percent-
age for the disadvantaged is incorrect. The
text should read "at least 20 percent to pay
up to 60 percent of the costs of programs for the disadvantaged. * * *
Since the language in
§ 104.313(a) is correct, no change is made in
the regulation.

§ 104.313 Minimum percentage for the
disadvantaged.

Comment. A commenter expressed a view that the proposed rules, which allow the
local educational agencies to charge the cost
of vocational education programs for the
disadvantaged, would result in supplanting
of funds. According to this commenter, a
strong possibility exists whereby the schools in economically disadvantaged areas will
take students who succeed in regular programs, identify them as disadvantaged, and
charge the set-asides for complete teacher salaries. In order to avoid allowing a com-
menter suggested that an individualized plan for each disadvantaged student be de-
veloped which would indicate that supple-
mental assistance is essential to enable that
student to succeed in the regular programs.

Response. The term "disadvantaged" is
defined in Appendix A. In accord with this
definition, a disadvantaged person must re-

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quire special services and assistance in order to succeed in vocational education programs. Students with the required vocational education program are not eligible for funding under the minimum percentage for the disadvantaged.

Furthermore, the dollar for dollar matching provision required by section 110(b) of the Act for programs for the disadvantaged would seem to preclude any diminution of the amount of Federal funds earmarked for the purposes of section 110(b). It is unlikely that a violation of the "no-supplant" requirement would occur.

The suggestion for requiring an individualized plan for the disadvantaged, as required for the handicapped, may be found desirable by some States but it is not mandated by the Act. Since this procedure is not required by the Act, it is not appropriate to be included in the regulation. Thus, no change is made in §104.213(b).

§104.213(b) Minimum percentage for the disadvantaged.

Comment. A commenter stated that because of the history of minorities and the disadvantaged in vocational education, it is critical for the regulation governing the national priority program for the disadvantaged to offer disadvantaged students a genuine opportunity to enter the traditional "dumping ground." In order to accomplish this objective, the commenter suggested incorporating the regulation reporting requirements on criteria for selecting students, the kinds of programs available, needs assessments, evaluation tools, and enrollment data.

Response. The suggestions offered by this commenter are already an integral part of the regulation. The criteria are set forth in Appendix A and the regulations included in §§104.183 through 104.189 govern the various requirements pertaining to the reporting of programs, needs assessments, and enrollment data; and §§104.401 through 104.405 set forth the program evaluation requirements. Since the commenter’s recommendation is incorporated into the regulation, no change is made.

MAINTENANCE OF EFFORT

§104.232 Reductions in expenditures.

Comment. A commenter questioned the basis in §§104.404 and 104.405 for accepting reductions in expenditures for vocational education. The commenter contends that any reduction would be a violation of section 111(b) of the Act.

Response. The term "fiscal effort" as used in section 111(b) is not defined in the Act or in the legislative history. For purposes of this regulation, therefore, the term relates to tax effort and takes into account the relationship of the tax rate to the tax base. If the tax base declines but the tax rate remains constant, fiscal effort is considered to have been maintained. If the tax rate declines proportionately, if, on the other hand, section 111(b) was written in terms of a "fiscal percentage," the State could be credited with a decrease in the tax rate and still maintain the same fiscal effort as defined by the Act.

§104.402 Evaluation requirements.

Comment. Several commenters were concerned about what they perceived as the excessive burden of performing all of the kinds of evaluations required by the Acts. Several commenters suggested that subsections (a) and (b) be deleted for that reason. Other commenters wanted additional criteria such as "job mobility" and "student satisfaction." Several urged that the States be allowed to choose whether or not to use the suggested reporting. Other commenters wanted additional criteria such as "job mobility" and "student satisfaction." Several urged that the States be allowed to choose whether or not to use the suggested reporting.

Response. The Act requires evaluation during the five-year period of the effectivity of each program or project, the number of examples in paragraphs (a), (b), and (c) are only suggested. Therefore, with respect to §104.402, the States already have the freedom of action described and desired by these commenters.

§104.402 Use of sampling for evaluation.

Comment. Several commenters urged that the States be allowed to use reasonable sampling procedures for the purposes of §104.402. Therefore, the regulation requires that paragraph (d) be amended.

§104.402 Evaluation of State and local programs.

Comment. A commenter objected to the required inclusion of State and locally-supported programs and projects in the evaluation, on the grounds that the Act does not contain this requirement.

Response. Paragraph (c) of §104.201 states that(1) every project supported in whole or in part by State or local funds which are used to match Federal funds must undergo the same evaluations and requirements as those supported by Federal funds.

Therefore, State and locally supported programs and projects cannot be exempted from the reporting requirement. Thus, no change is made in the regulation.

§104.402 Employer satisfaction.

Comment. One commenter urged that the regulation permit and encourage the States to measure the outcomes and student performance by any means considered appropriate by the State, including surveys conducted by local educational agencies. The proposed regulatory language is not clear, and §104.402(d) has been amended to read "The results of additional services as measured by the suggested criteria under paragraphs (a), (b), and (c) of this section that the State provides under the Act to these special populations:"

§104.402(d) Services to special populations.

Comment. A commenter found §104.402(d) "particularly inept and confusing" and recommended that services to women, members of minority groups, handicapped persons, and disadvantaged persons be measured by the same criteria used for measuring services to other students.

Response. The criticism is well taken. The intent of the regulation is to require that the named "special populations" be measured by the same criteria as are used with all other students; that is, that the States conduct the same evaluations and attend to the same criteria as are used for the regular students. The revised regulation states that the State's evaluation would report on any other services provided for these special populations.

The proposed regulatory language is not clear, and §104.402(d) has been amended to read "The results of additional services as measured by the suggested criteria under paragraphs (a), (b), and (c) of this section that the State provides under the Act to these special populations:"

§104.402(d) Services to special populations.

Comment. A commenter recommended that paragraph (d) of §104.402 be amended to mandate evaluation of the effectiveness of services to special populations named there instead of making that part of the evaluation optional.

Response. The recommendation is accepted because the law not only requires evaluation of the effectiveness of all programs, projects, and activities assisted under the Act, but also gives particular emphasis to those special populations.

As amended, paragraph (d) becomes mandatory. In keeping with this rationale, a fifth special population category, "limited English-speaking ability" is added to paragraph (d).
§ 104.402 Services to the handicapped.

Comment. A commenter recommended that for each handicapped student, the State be required to include in its evaluation information about the institutional, such as the handicapping condition, and the specific occupational program in which the student is enrolled.

Response. The act provides no basis for requiring such institutional information to be provided in other legislation, e.g., the Education of the Handicapped Act, as amended by the Education for All Handicapped Children Act of 1976, for reporting on services to handicapped students. Therefore, no change is made in the regulation.

§ 104.402 Fluctuations of the economy.

Comment. A commenter wanted the State's evaluation of placement of vocational education students in jobs to take into account changing economic conditions which affect the job market.

Response. Although the intent of such an amendment is meritorious, the recommendation is not accepted, because it would increase the administrative burden on States, already heavy burden borne by the State boards. The State board is, of course, free to take such considerations into consideration in making the evaluation if it chooses to do so. No change is made in the regulation.

§ 104.404 Follow-up of all students.

Comment. One commenter interpreted § 104.404 to mean that follow-up data be secured for only those "completers" and "leavers" who find employment and urged that the survey encompass both those employed and those unemployed.

Response. No modification of the regulation is required, since § 104.404(b)(1) will show whether or not the employer or the leaver found employment and whether the employment was or was not related to the vocational training.

§ 104.404 Definition of program leaver.

Comment. Two commenters recommended deletion of § 104.404(c)(2)(II), "all other leavers," on the grounds that the inclusion of that part of the definition would require follow-up of students who are enrolled in a single vocational education course and leave two weeks later. This would impose an additional burden on those States which include in their definition of "leavers" those students who leave an environment in which the student is included in the follow-up survey.

Response. The Commissioner is aware of the problem posed by students whose enrollment is of such limited duration that they should not be counted in any survey of program leavers. However, instead of setting by regulation a maximum duration of enrollments that are not to be counted, the Commissioner prefers that such guidance be furnished as part of the instruction for submission of required reports and data. No change is made in the regulation.

§ 104.404 Scrutiny of teaching materials.

Comment. A commenter urged the Office of Education to improve the effectiveness of the program by including in the evaluation of the educational and teaching programs and courses taught and used in the field of homemaking. The Commissioner agrees that the effectiveness of the program is determined in large part by the quality of the instruction and materials used.

Response. Entry-level level job skills is interpreted as referring solely to paid employment, which eliminates from consideration homemaking job skills. Therefore, the definition of "job skills" in both definitions is interpreted as referring solely to paid employment, which purports to teach entry-level job skills.

§ 104.404 Evolution of homemaking job skills.

Comment. Two commenters wanted the regulation to define "homemaking job skills" to be expanded thus: "which purports to teach entry-level job skills; not to include the occupation of homemaking," on the grounds that it is unreasonable to try to evaluate the adequacy of training for homemaking.

Response. Entry-level level job skills is interpreted as referring solely to paid employment, which eliminates from consideration homemaking job skills. Therefore, the Evansville program is not considered as meeting the mandatory reservation of funds under section 120 of the Act to support the recommendation.

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tional education purposes for which the facility is designed. Although the definition of "vocational education" does not allow for the purchase of initial equipment, States may use funds to purchase equipment. The inclusion of this provision is designed to comply with the regulations promulgated in 1976 by the Commissioner at 40 FR 36769 (December 11, 1975) to the extent that would not lead to abuse of the Federal government funds. Although this provision is an integral part of the regulations, many commenters objected to its inclusion in the final rule. If an activity is not explicitly set forth, it is unnecessary to regulate on nonreimbursable activities in order to avoid the Federal government funds used for student organizations.

Many commenters stated that the regulations may be fostering a discriminatory policy if the lodging and transportation is provided to students without an assigned residence, rather than being available to all students. One commenter suggested that the regulations should be made more explicit to ensure that all students have equal access to vocational education opportunities. Another commenter recommended that the regulations be more specific to ensure that all students have equal access to vocational education opportunities.

The one item in paragraph (c) which received the most comment was the prohibition against using funds for lodging, feeding, conveying, or furnishing transportation to convert an employment agency into an assembly. Some commenters questioned the legality of this prohibition and argued that it would be ineffective in preventing the use of Federal funds for transportation.

The regulations state that the use of Federal funds, to the extent that would not lead to abuse of the Federal government funds, is permitted for education, training, and other activities as necessary to implement the National Policy.
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convention by permitting use of Federal funds for any type of travel of students. This does not mean, however, that funds cannot be used for travel which is part of the instructional program. Funds may be expended on an activity which is required by law, or made necessary by the circumstances of such travel, if necessary to carry out an otherwise allowable activity such as field work.

Although paragraph (c) lists six items which cannot be funded due to their non-instructional nature, the language in (c)(1) received minor changes. This paragraph provides that “an integral part of a vocational instruction” does not include lodging, feeding, conveying, or furnishing transportation to conventations or other forms of assembly. This language, which is taken directly from 31 U.S.C. 851, continues the expenditure of Federal funds and all State and local funds set forth under the plan. The word “assemblage” in this subparagraph, however, was not intended to include field work and laboratory work, but rather social, athletic, or recreational events. Accordingly, the word “social” has been inserted before the word “assemblage.”

Finally, paragraph (e) lists the general conditions for vocational educational student organizations described in the approved five-year State plan. In addition to the activities described in paragraph (a), if an “integral part of the instruction and essential to the high quality of instruction personnel, another condition is made explicit in light of the comments received. This activity, which is part of the cooperative education program, will not be permitted to occur in any student organization. Students cannot be excluded from the benefits of a program receiving Federal funds because they do not choose to join the student organization.

§ 104.514 Vocational instruction under contract.

Comment. Many commenters expressed confusion with respect to the scope of § 104.514. Some questioned whether private vocational training institutions include both private-for-profit and private non-profit institutions. Others requested clarification on any special requirements pertaining to arrangements with private post-secondary vocational training institutions. Response. Part of the confusion on the issue of non-profit vocational training institutions was due to the omission of the contracting authority for private vocational training that uses Federal funds. Under the Technical Amendments, however, this contracting authority remains in the State department. Accordingly, the regulation has been amended to reflect this change.

§ 104.514 Discrimination in private education institutions.

Comment. A commenter suggested that the data indicate that the education in PEER is not equally accessible to students with disabilities. In addition, paragraph (c) of § 104.514 has been amended to clarify the fact that contracts with private vocational training institutions include both for-profit and non-profit institutions.

In addition, paragraph (a) of § 104.514 has been amended to clarify the fact that contracts with private vocational training institutions include both for-profit and non-profit institutions.

§ 104.514 Discrimination in private education institutions.

Comment. A commenter raised concerns about the lack of accessibility of private educational institutions; however, this is not addressed in the regulations.

Response. Title VI of the Civil Rights Act, which prohibits discrimination on the basis of race, Title IX of the Education Amendments of 1972, which prohibits sex discrimination in schools that receive Federal funds, and Title II of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of handicapped, are all applied to private post-secondary vocational educational institutions.

Although these regulations do not require LEAs to maintain the type of data file on each student participating in work study or cooperative education programs, commenters, the full-time personnel designated to eliminate sex discrimination may want to consider seriously the adoption of this recommendation.

§ 104.523 Work study—disadvantaged participation.

Comment. Many commenters questioned whether work study funds would be a legitimate expenditure under the minimum percentage for the disadvantaged in section 110(b) of the Act.

Response. In light of the enactment of the Technical Amendments, States now have the option of funding work study programs for the disadvantaged as a legitimate expenditure for the minimum percentage for the disadvantaged. Section 110(b) now allows for the cost of programs, services, and activities under subpart 3, which was applied against the 20 percent set-aside. Since work study is a permissible activity under subpart 3, the funding of work study programs for the disadvantaged is now allowable according to the Act. A change has been made to § 104.523 to clarify this matter.

§ 104.523(b) Work study—ranking of applications.

Comment. A commenter questioned whether the State must fund work study programs for all LEAs or only for some of them.

Response. Under the consolidation imposed by the Act, the State retains the discretion of determining which programs under section 110(b) will be funded. If work study programs are funded, then the State must give preference to applications submitted by LEAs serving communities having substantial numbers of youth who have dropped out of school or who are unemployed in accordance with § 104.523(b). No change is made in the regulation.

§ 104.523(a) Work study administrative costs.

Comment. Many commenters suggested that the final sentence of § 104.523(a) requiring work study administrative costs to be supported with non-Federal funds be deleted. Some of these commenters suggested that the following sentence be substituted: “Funds shall be expended solely for payment or compensation to students employed in work study programs.”

Response. In view of the fact that the Technical Amendments now authorize the use of Federal funds for local administrative costs, the provision in § 104.523(a) prohibiting such use has been deleted. Nevertheless, section 121(b)(1) of the Act requires that Federal funds for work study be expended solely for the payment of students employed pursuant to work study programs. As long as all Federal funds distributed under the specific work-study application are earmarked for payment to students employed pursuant to work-study programs, the requirement that Federal funds for work study programs be used for local administrative costs is not significant.

§ 104.523 Work study eligibility.

Comment. A commenter asked whether work study programs could be administered by local educational agencies only. This com-
menter stated that it should be permissible for the State board to administer the pro-
gram if the State board directly operates the school.

Response. Section 121(a) of the Act limits the admin-
sstration of work study programs to local educational agencies. Section 104.523 of the regulation also limits the eligibility to LEAs. In order for the State board or other eligi-
ble recipients to administer work study programs, legislative relief would be neces-
sary. Accordingly, no change is made in the regulation.

§ 104.523(e) Work study—20-hour limit.

Comment. A commenter asked whether the 20-hour limit per week in the work study program conformed to Department of Labor standards. Another commenter stated that the 20-hour limit for a student 18-21 years of age may not provide enough earnings to meet the student's needs.

Response. Section 121(e)(3) requires the Commissioner to determine a rea-
sonable number of hours per week that a stu-
dent may be employed under a work study program, it is unnecessary to conform the 20-hour limit in § 104.523(e) to Department of Labor hours. Section 121(e)(3) of the Act limits employment being too low, it is the Commissioner's position that an average of 50 hours a week would be potentially detrimental to the student's academic efforts. Furthermore, a ceiling or floor is not permissible for the resources available for work study to be shared among more students. Accordingly, no change is made in the regulation.

§ 104.531 Cooperative programs—100 percent funding.

Comment. Many commenters questioned whether all cooperative vocational education programs may receive 100 percent Federal funding or just those cooperative programs serving students in nonprofit private schools. Some of these commenters indicated that only the cooperative vocational education program described in section 122 of the Act should include nonprofit private school students.

Response. The Vocational Education Act does not provide authority for two types of cooperative vocational education programs. Any basic grants funded by a State for cooperative vocational education programs must meet all the statutory requirements of section 122 of the Act and §§ 104.531 through 104.534. All of these requirements are interdepen-
dent and must be met by a State if the State is to receive funds for cooperative educational programs and funding the activity under section 120(b)(1)(A).

With respect to the issue of funding, the State may fund, with up to 100 percent Federal monies, those cooperative vocational edu-
cation programs being carried out by LEAs which include the participation of students from nonprofit private schools. This does not mean that the program must be designed exclusively for students in nonprofit private schools; but rather, if the program includes such students, it may be funded up to 100 percent Federal funds. In light of this matter in the regulation, § 104.536(a)(1)(A) is amended to read, "Cooperative vocational education pro-
grams which include students enrolled in nonprofit schools (work-study employment) because of the consolidation of cooper-
ative vocational education programs under the grant. The issue raised is whether the LEA, having received funds from the State, must give priority in funding cooperative edu-
cation programs to areas that have high rates of school dropouts or youth unemploy-
ment.

Response. Even though the cooperative vocational education program has been con-
sidering the additional training of disadvantaged or handicapped students. For ex-
ample, a number of students are placed in a business establishment and the employer assigns on-the-job training students while they are on the job then the employer may be entitled to be reimbursed for the added cost of the time the employee supervises those students. No change is made in the regulation.

§ 104.533 Cooperative programs—private nonprofit schools.

Comment. One commenter pointed out that a provision to supplement govern-
ment programs by the participation of students in nonprofit pri-
sate schools in cooperative vocational edu-
cation programs is taken almost verbatim from the corresponding statutory language. This commenter stated that the regulation ignores the specific concerns expressed by the Committee on Labor and Education in H.R. 94-1068 at page 46. In this passage the Committee urged the Office of Education to take more vigorous steps to implement the statutory provisions for funding cooperative pro-
grams involving students enrolled in non-
profit private schools. Without further elaboration in the regulations, this concern, this commenter believes that there will not be adequate safeguards to assure that eligible students enrolled in nonprofit private schools will participate in the programs on an equitable basis.

Response. The comment is accepted. A new regulation, § 104.533, is added to the section on cooperative vocational edu-
cation programs to reflect the language contained in the House Report. In accordance with this regulation, the State must consult with the appropriate nonprofit private school officials at the State and local levels in making any decision to discontinue the participation of students enrolled in non-
profit private schools.

In addition, LEAs receiving funds for cooperative programs shall identi-
fy the eligible students, assess their needs, and provide them with the type of pro-
grams and services which will most effec-
tively meet their needs. The personnel, materials and equipment necessary to pro-
vide these cooperative vocational education programs and services, and the administration, direction and control of the LEA.

§ 104.532 Cooperative programs—on-the-job training.

Comment. Commenters expressed strong disapproval of the omission in § 104.532 of two important on-the-job training require-
ments which were included in the regula-
tions (§ 104.528) implementing the 1968 legis-
lation. These requirements would insure that the cooperative program provide on-the-job training that:

1. "(a) Employs and compensates student-
learners in conformity with Federal, State, and local laws and regulations and in a manner not injurious to the student-learner for private gain;" and

2. "(b) Is conducted in accordance with written training agreements between local educational agencies and employers.

According to these commenters, the coopera-
tive vocational programs may be converted to job-placement services. The previous provision with less emphasis on high quality, bona fide cooperative programs. Without the struc-
ture of the training agreement, LEAs may increase the pupil-teacher ratio, increase the class size, and add responsibilities for the teacher-coordinator. Non-compensation of the student-learner may have a detrimental effect on the quality of the cooperative vocational edu-
cation program. It should be noted, how-
ever, that whereas the former regulation re-
quired the written training agreements to be submitted to the State for filing with the local application, this submission is not required by this regulation. The State shall only provide an assurance of these two re-
quirements along with the other assurances set forth in § 104.532.

§ 104.531 Energy education—secondary level.

Comment. Several commenters objected to the language in § 104.531 which provides
that funds may be used for grants to post-
secondary institutions for energy education.

These commenters raised serious questions as to the exclusion of energy education pro-
grams from secondary schools. Some of these
commenters stated that students who have no
opportunity to receive higher education des-
erve, nevertheless, as much chance as possible
to get good training. Other comment-
ers pointed out that their local secondary in-
stitutions had already or are ready to have successful energy education proj-
ects at the secondary level.

Response. The language of the regulation
is based directly on section 120 of the Act
which provides for grants to postsecondary
institutions. Neither this statutory provision
nor § 104.511 of the regulation has been
viewed as limiting the funding of these
energy education programs which may be
characterized as vocational education pro-
grams exclusively to postsecondary institu-
tions. In the event an LEA has incorporated
an energy education program into its regu-
lar vocational education curriculum at the
secondary level, the LEA may use funds it
receives under its local application to support
this program. It is imperative, however, that
the energy education program at the sec-
ondary level be considered a vocational edu-
cation program under section 120(b)(1)(D) of
the Act and not under section 120(b)(1)(D)
of the Act.

§ 104.543 Solar energy.

Comment. A few commenters objected to
the fact that the regulation provides for the
support of programs for solar energy but
makes no mention of other energy areas such
as oil shale, or hydroelectric power. Other
commenters stated that training limited only to
installation of solar energy equipment is too
narrow.

Response. Although the regulation follows
the Act very closely for the solar and energy
area, it was not intended to exclude voca-
tional training in other energy areas such as
oil shale, or hydroelectric power. It was not
intended to exclude training in the operation
and maintenance of solar and other energy
producing equipment. As long as the training
program may be characterized as vocational
education under section 120(b)(1)(A), Federal
funds may be used to support
the program. No change is made in the regu-
lation.

§ 104.553 Location of vocational facilities.

Comment. One commenter stated that many
area schools which receive Federal funds with
Federal funds serve racially identifiable
populations and areas, often to the detriment of
central city school districts which serve
predominantly white, non-deficit student popula-
tions. This commenter recommended that the
regulation be amended to require the State
board to also examine and assure equitable
educational opportunities for all students.

Response. Since the construction of area
vocational schools is an authorized activity
under section 120 of the Act, the siting of the
schools are chosen at the discretion of the
State and LEA. However, the nondiscrimina-
tion provisions in 45 CFR Part 80, which
affect Title VI of the Civil Rights Act of
1964 are binding on the State. Section 45
CFR 80.5(b)(1) states that in determining the
site or location of a facility, a recipient may
not make selections with the effect of exclud-
ing or denying benefits to an otherwise
qualified person because of race, color, or
national origin. Furthermore, if the State makes
Federal funds available to an eligible recipient
for construction of a vocational facility, the
funds must not be used for construction of a
vocational facility which prevents any person
from obtaining the benefit of the dollar
funding formula described in Section 100(a)(6)
of the Act. Under this formula, priority
must be given to eligible recipients located in
economically depressed areas and areas
with high rates of unemployment. Accord-
ingly, Federal funds used for construction
must be distributed to communities in eco-
nomically depressed areas such as central
city school districts.

With respect to the issue of equal educa-
tional opportunity and equal protection and ad-
misision policies; Title VI of the Civil Rights
Act and Title IX of the Education Amend-
ation of 1972. Although equal opportunity
exists at the secondary level. Since these provisions
are binding on all institutions receiving Fed-
eral assistance, these facilities must be con-
structed with Federal monies in a non-discrimina-
tory manner. To deny a qualified applicant
admission to such institutions makes no mention of other energy areas such
as oil shale; or hydroelectric power. Neither
this statutory provision nor the regulation
makes no mention of other energy areas such
as oil shale; or hydroelectric power. Neither
this statutory provision nor the regulation
Is

§ 104.571 Provision for stipends.

Comment. Many commenters suggested that
since Federal vocational education re-
sources are so limited, the use of funds to pay
stipends to students is highly questionable. These commenters believe that available
funds should be spent to upgrade and main-
tain existing programs and provide for ex-

dansion.

Response. Although section 120 of the Act
allows for the provisions of stipends, the de-
cision to permit funds to be earmarked for
these purposes is left to the discretion of the
individual States. Since the Act provides the
State with this option, no change is made in the regu-
lation.

§ 104.581 Placement services.

Comment. A commenter suggested that the
language of § 104.581 be revised to include
guidance and counseling explicitly under the
section of the basis grant which permits funds
to be spent for counseling services. The con-
tractors, who have successfully completed vocational
education programs.

Response. Section 120(b)(1)(B) of the Act
permits the expenditure of subpart 2 funds for
placement services if there is inadequate
placement services for students who have
successfully completed vocational education
programs. The inclusion of placement services
as an integral part of guidance and counsel-
ing, the Act does not authorize sec-
tion 120 funds to be used for all activities
under the general heading of guidance and
placement. Since the regulation conforms
to these statutory limitations, no change is
made in the regulation.

§ 104.581 Placement services for comparators.

Comment. A few commenters were critical
of the language in § 104.581 which provides
placement services for students who have
successfull completed the vocational educa-
tion program. These commenters have urged
that the placement services be made available
to all students who have enrolled in a voca-
tional education program, regardless of whether
the program is completed or not completed.

Response. The language in § 104.581 is based
directly on section 120(b)(1)(B) of the Act
which limits the eligibility to "students who have successfully completed vocational
education programs." To expand eligibility would contravene both the Act and the legislative
history. Thus, no change is made.

§ 104.591 Industrial arts—mandatory fund-
ing.

Comment. A few commenters asked
whether a State could legally refuse to make
Federal funds available for industrial arts
programs.

Response. Although industrial arts is an
authorized activity under section 120 of the
Act, the matter of funding such programs is
left within the discretion of the State. There
is no requirement in the Act that each spe-
cific program enumerated in section 120 be
funded. No change is made in the regulation.

§ 104.591 Industrial arts for the disadvan-
taged and handicapped.

Comment. A commenter asked whether prov-
cational and exploratory programs in industrial
arts programs designed for the handicapped and disadvantaged may be
funded under section 120 against the section 110 minimum percentages.

Response. Preventional and exploratory
programs in industrial arts programs are permissible expenditures under section 120 of
the Act. Since expenditures for all programs, services and activities under section 120 may be
drill for the disadvantaged and dis-
advantaged in section 110, the cost of pro-

cational and exploratory programs in in-
dustrial arts may be charged against the
section 110 minimum percentages. No change is made in the regulation.

§ 104.592 Industrial arts—sex stereotyping.

Comment. Many commenters stated that
industrial arts programs traditionally have
discriminated against women by denying them entry into man-intensive fields. Ac-
cording to the regulation, the pattern of
students encountering discrimination at the in-

ductive vocational level are less likely to
develop and enter into successful vocational
courses and are handicapped when they try to enter vocational programs which
do not have sex-stereotyped and sex
programs acquired in industrial arts programs.
The comment is accepted. Section
120(b)(1)(1) provides for the support of
industrial arts programs which will assist in
meeting the purposes of the Act. One of
the primary purposes set forth in the declara-
tion of purpose, section 101, is the develop-
ment of programs to overcome sex stereotyping; therefore, the references to the purpose
of the Act of overcoming sex stereotyping
should be made explicit in the regulation. Accordingly, § 104.592 has been amended to
reflect this concern.

§ 104.601 Support services for women.

Comment. Many commenters expressed
concern with this section of the regulation
because it deals with problems related to
women. Some of these commenters be-

cieve that, inasmuch as the Federal law is
designed to eliminate sex bias, this regula-

tion, violates Title IX which provides that no
program can discriminate against either sex.

Others recommended that the regulation
provide support services for men who enter
programs designed to prepare persons for
disabilities in jobs which have traditionally
been limited to women.

Response. One of the major conclusions
reached by Congress during its two years of
hearings on the Vocational Education Act
was the inferior position which women now hold in the labor market is reinforced
by the type of training programs available
provided by the Federal government. The
regulation was drafted in a way to attempt
to solve this problem. One of the key pro-
visions in this major regulatory act was the
section 120(b)(1)(D) (p) program of
support services for men. Section 104.601 of the regulations is based on this
statutory provision. It should be noted, how-

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ever, that support services for men (e.g., counseling, training, retraining) are reimbursable under other sections of the Act. Thus, no change is made in the regulation.

§ 104.702(a) Support services for women—
counseling.

Comment. A commenter suggested that the language in § 104.622(a) "repair of instructional supplies" be changed to "repair of instructional equipment" because support services are not normally provided by the term equipment would be amended.

§ 104.603 Residential schools—
discrimination.

Comment. A commenter requested that the standards of Title VI of the 1961 Civil Rights Act be substituted for the present language since it may not be used for schools in which students are segregated because of race. Another commenter suggested that § 104.603 be added to prohibit the use of funds for schools where there are different standards for admission based on age, sex, race, or national origin.

Response. There is no legal basis in the Act for requiring the RCU to be responsible for vocational education personnel training activities as well as the research, exemplary and innovative programs, and curriculum development.

Response. The Act does not define the expression "demonstrate a reasonable probability." The burden is on the applicants to set forth a reasonable probability that the project will result in usable improved teaching techniques or curriculum materials. Since the expression is not defined in the regulation, the State must make the determination of the reasonable probability. No change is made in the regulation.

§ 104.703 Research coordinating unit (RCU).

Comment. Several commenters recommended that the RCU permit a State to establish a research coordinating unit and that two commenters recommended that the RCU require a State to establish a research coordinating unit and that title 7 included. The the Act permits a State to establish a research coordinating unit and that it is not mandatory for the State to do so. Commenters recommended that this requirement be clarified.

Response. The Act states that a State "may" (not "shall") use the funds for the establishment of a research coordinating unit. However, if a State is to use these funds for research, exemplary and innovative programs, or curriculum development, it must establish a research coordinating unit in order to do so. No change is made in the regulation.

§ 104.703(2) The Technical Amendments and the legislative history of the Technical Amendments (Senate Report No. 95-142) make it clear that the RCU may perform all of the research, exemplary and innovative programs and projects for occupational and educational purposes. The Act permits a State to establish a research coordinating unit and that the State may, if it chooses, charge the RCU with responsibility for coordination of vocational education personnel training. No change is made in the regulation.

Response. Several commenters stated that the American Education Personnel Training Act of 1973. Title IX of the Act, requires that the State grant and must be governed by the State plan, and it is the responsibility of the State board, not the research coordinating unit, to develop the State plan. Commenters recommended that the regulation clarify the roles of the State board and the RCU.

Response. The RCU is not responsible for the development of the State plan or the comprehensive plan of program improvement. The development of these documents is the responsibility of the State board. Section 104.703(c) is amended to clarify the role of the RCU.

Comment. Several commenters were concerned that the regulations do not adequately control duplication of efforts in the State, and that the plan is the responsibility of the State board, Section 104.703(c) is amended to clarify the role of the RCU.
which directly provide guidance counseling and placement services as part of the vocational education effort.

Comment. The research activities listed in this regulation are taken directly from the Act. Under this present authority, the State may evaluate the effectiveness of training and retraining of guidance personnel or other personnel. No change is made in the regulation.

§104.706 Exemplary and Innovative Programs.

Comment. A commenter recommended that programs designed to facilitate the employment of older people, including people over 65 years of age be included in the list of possible uses of exemplary andinnovative funds.

Response. Although older people are not separately identified as persons who would benefit from exemplary and innovative projects, they clearly are included. No change is made in the regulation.

§104.708 Curriculum development.

Comment. Several commenters questioned why the research coordinating units must do the contracting for the curriculum development effort.

Response. Section 133(a) of the Act, as amended by the Technical Amendments, clearly states that the contracts for curriculum development are to be made by the research coordinating units. No change is made in the regulation.

§104.763 Eligibility for placement and follow-up services.

Comment. Several commenters raised questions about the meaning of educational placement and job placement services, and which groups or individuals are eligible to receive funds for this activity under the Act.

Response. The law provides for educational and job placement services, including preparation, with appropriate subgroups, to simplify and make clearer the meaning of the Act. Judging from the many comments received on this regulation, the purpose for regrouping was not achieved. Therefore, the recommendation of the commenter that §104.763 is changed to conform to the language of the Act is accepted because such training may be inconsistent with the regulatory structure.

§104.764(a) Special emphasis.

Comment. A commenter expressed the opinion that the term “counselor” as used in this regulation could be misinterpreted or puzzling and might pose a problem regarding official counselor qualifications. This commenter recommended the deletion of the phrase “to schools as vocational career advisors for students.”

Response. The Technical Amendments make the intent of Congress clear on this issue. The language of the Technical Amendment is “shall include one or more of the following activities * * *.” In most instances, the commenters offered recommendations that, if put into the regulation, would assure the funding of specific activities and in some cases each of the eight activities listed in the Act.

§104.774 Other types of training.

Comment. A commenter asked whether funds available under section 130 of the Act could be used to provide training for competency-based program, teacher certification programs, vocational degree programs, and vocational leadership development programs. The commenter recommended a regulation stipulating that locally-oriented evaluation and needs assessment must be the basis for determining the uses to be made of vocational education personnel training funds.

Response. The State, through its five-year State plan and annual evaluation, will have the option of providing any kind of training that it believes will improve the quality of instruction, supervision, or administration of vocational education. The State may choose to base its determinations on local evaluation and local needs assessments. The recommendation that the State’s options in this matter be limited by regulation is not accepted because there is nothing in the Act on which to base such a limitation. No change is made in the regulation.

Comment. One commenter recommended that §104.776(b) be amended to read “In-service training * * * to overcome sex bias and sex stereotyping in vocational education programs.”

Response. The recommendation to add “and sex stereotyping” is accepted, because the Congress, in the Act’s declaration of purpose (Section 101(3)), emphasized equal opportunity in vocational education for persons of both sexes, and it would be reasonable to suppose that after the Congress included overcoming both sex discrimination and sex stereotyping in the declaration of purpose, it meant to exclude the latter concern in programs of vocational education personnel training.

Comment. One commenter wanted the regulation to include, specifically, training in curriculum development.

Response. The recommendation is not accepted because such training may be included under the non-exhaustive list in §104.774 at the option of the State. No change is made in the regulation.

§101.84 Handicapped or disadvantaged students.

Comment. A commenter recommended that the regulation include, as an allowable category, training to improve vocational education for handicapped and disadvantaged persons; another commenter similarly recommended the inclusion of a training to deal with “learning disabilities.”

Response. Such training may already be included under the non-exhaustive list in §104.774 at the option of the State. Nevertheless, because of the emphasis in the Act on these categories, the regulation has been amended to include them specifically.
GRAINES TO OVERCOME SEX BIAS
§ 104.792 Overcome sex bias "and sex stereotyping."

Comment. One commenter requested that "sex stereotyping" be added to § 104.792(a).

Response. The recommendation is accepted. Although the title of section 108 in the Act uses only the term "sex," the body of that section refers to "sex stereotyping" and bias." It appears that "sex stereotyping" was inadvertently omitted from the regulation.

§ 104.793 Types of projects.

Comment. Many commenters felt that the activities listed were too limiting and examples should be deleted altogether. Many others, however, felt that the list was not comprehensive enough. Of these commenters, most wanted to add "programs to overcome sex bias and stereotyping.

Response. The activities listed in § 104.793 are intended to be examples, and the list is not exhaustive. Section 103.104(a) of the Act, which authorizes grants to overcome sex bias and stereotyping, falls under subpart 4, Program Improvement and Supportive Services; therefore, funds used under this section must go for support or improvement of vocational education programs. Thus, as programs in terms of the Act, they may be supported by funds under this section. No change is made in the regulation.

§ 104.803(e) "Assisting girls and women" in selecting careers.

Comment. Several commenters felt that § 104.793(e)(2) should not be restricted to women and girls and that the regulation should not restrict persons in selecting careers. The rationale they gave for requesting the change was that males, too, need assistance in selecting careers according to their interests rather than according to stereotypes. They felt that, in placing males out, the regulation was sexist.

Response. The recommendation is accepted to include males as well as females. Paragraph (e) is rewritten to include assistance for all persons in selecting careers since sex stereotyping is not limited to females.

SUBPART 4—SPECIAL PROGRAMS FOR THE DISADVANTAGED
§ 104.801 Girls and women as disadvantaged.

Comment. A commenter has recommended that "because girls and women traditionally have been channeled into educational tracks which have not enabled them to acquire the prerequisite training for "any" occupation," the term "range of occupations," "girls and women" should be added as a group who require special services in order to succeed in vocational education programs. The same commenter recommended an additional criterion, "those who lack prerequisites as a result of previous discrimination."

Response. Since the criteria for identifying those who are academically disadvantaged already include the lack of reading, writing, or mathematical skills, and failure to perform at the necessary grade level, adding a specific criterion for "girls and women" as disadvantaged (even those who have the necessary skills and perform at the necessary grade level) is not necessary. Therefore, this recommendation is not accepted. No change is made in the regulation.

§ 104.803 Occupations of consumer and homemaking.

Comment. Many commenters recommended that the regulation use the term "occupation" (singular) of consumer and homemaker even though the Act uses "occupations" (plural). Responding to a recommendation accepted, the phrase "occupation of consumer and homemaking" has been substituted. Although the regulation follows very closely the wording in the Act, since the persons most closely associated with the work of the home, any distinction in取消, consumer and homemaking education is strongly felt that the occupation of consumer and homemaking should be referred to in the singular, the regulation is amended accordingly.

§ 104.903(a) Consumer and homemaking education at the elementary level.

Comment. A commenter questioned the inclusion of "elementary" after the phrase "at all educational levels" because elsewhere vocational education is only for secondary, postsecondary, and adult levels.

Response. The House Report (No. 94–1085, p. 32) expressly states that, because of consumer and homemaking education was expanded to include the elementary level. Therefore, no change is made in the regulation.
Comment. A commenter recommended that "regularly" should be deleted so that no programs will be funded under this section unless they show evidence of using or developing curriculum materials that address sex stereotyping in the area they are addressing, e.g., programs for handicapped persons.

Response. Section 432 of the General Education Provisions Act, described in the previous response, also prohibits the Commission-er from exercising, supervising, or controlling the "textbooks or other printed or published instructional materials by any educational institution."

While the Act and regulation require the elimination of sex bias and sex stereotyping in curriculum materials, it would be inappropriate, and possibly illegal under section 432 of GEP, for the Commissioner to require all schools to use textbooks or other material which specifically address sex stereotyping. On the other hand, schools must use textbooks and other material which are free from sex bias and sex stereotyping. No change is made in the regulation. § 104.904(d) Definition of "outreach."

Comment. A commenter recommended that "outreach programs" be defined.

Response. The Act and § 104.904(d) of the regulation encourage consumer and homemaking outreach programs for, e.g., aged, young children, school-age parents, single parents, and handicapped persons. While the Act does not specifically mention elimination of sex bias, sex stereotyping will be dealt with through the setting of priorities.

§ 105.101 Elimination of sex bias.

Comment. Several commenters expressed concern that there was not sufficient emphasis on elimination of sex bias and sex stereotyping in §§ 105.101-111. Two commenters suggested giving more points to projects dealing with this concern.

Response. The comments are accepted. In light of the fact that one of the major purposes of the Act is the elimination of sex bias, the weight given to this criterion in § 105.110 (k) has been increased to eight points. In addition, the criteria for sex bias and sex stereotyping will be dealt with through the setting of priorities.

§ 105.101 Emphasis on contracts.

Comment. Two commenters expressed concern that the legislative intent of emphasizing contracts over grants needs to be spelled out more clearly.

Response. The regulation now conforms to the Act with regard to this matter. Section 171(a) states that program funds are to be "used primarily for contracts, and in some cases for grants." It is clear that the program is to be administered primarily through procurement contracts rather than through grants. This mode of program administration will apply to all of the activities listed in § 105.104. No change is made in the regulation.

§ 105.102 National Center for Research in Vocational Education.

Comment. Some commenters expressed concern that the regulation did not reflect the language of the Act in terms of the regional research centers. The commenters recommended that § 105.102 be rewritten.

Response. The recommendation is accepted. The regulation is changed to read exactly as it is in the Act in regard to the regional research centers.

Comment. A commenter expressed concern that the section on the national center did not mention elimination of sex bias or sex stereotyping as a special concern.

Response. The Act, which is the section concerned with the national center, does not give special mention to sex bias and sex stereotyping. A major emphasis of the Act is on the elimination of sex bias and sex stereotyping, it will directly affect the administration of programs of the center. No change is made in the regulation.

Comment. A commenter expressed concern that the national center could have an unfair preemptive position in competing for contracts.

Response. Even though the national center has been designated as a "priority" for the Commissioner, it will in no way establish the priorities for the project support program to be administered by the Commissioner. The national center is designated as a priority by the Commissioner in the development of individual Requests for Proposals (RFP). If the national center assisted in the preparation of a particular RFP, the national center would not be eligible to compete for the contract under the RFP. The Commissioner will ensure sole source procurements only in extremely limited circumstances and situations. No change is made in the regulation.

Comment. A commenter expressed concern that the national center would center all of its research activities to be funded by the Commissioner and none would be through individually funded projects.

Response. The Commissioner does not plan to administer the program in a manner that would allow the center to preempt research activities. Greater resources will certainly be allocated to funding individual projects than to funding the national center. No change is made in the regulation.

Comment. A commenter expressed concern that the national center would have access to confidential financial information of competitors.

Response. The national center will not have access to confidential financial information that is protected by the Privacy Act or that is not released under the Freedom of Information Act. Copies of unfunded proposals would not be available to the national center. Copies of funded proposals protected by the Privacy Act would be available to the national center if needed by the national center in order to carry out its clearance functions. No change is made in the regulation.

§ 105.104 Role of States.

Comment. A commenter expressed concern that States would have too great a role in the administration of the Commissioner's discretionary projects under this section.

Response. The Act does not require that proposals requesting support from the Commissioner under the terms of section 171 be sent through the States. The Commissioner does not plan to request that proposals be sent through the States in the administration of this program. No change is made in the regulation.

§ 105.106 Eligibility of individuals.

Comment. Several commenters suggested that individuals not be included as eligible applicants.

Response. Since the Act does not exclude individuals as eligible applicants, no change is made in the regulation.

§ 105.106 Cost sharing.

Comment. A commenter objected to the statement in § 105.106 in relation to grants or contracts for program improvement: "No cost sharing is required." The objection was based on the implication, which the short sentence carries, that cost sharing will not be sought or accepted from any applicant. The commenter recommended that the sentence be reworded.

Response. This recommendation is accepted. While cost sharing is not required by the Act, an applicant may indicate it intends to contribute part of the cost of a project. The heading is changed to "cost sharing," and a new sentence is added as follows: "The Commissioner may pay all or part of the cost."

§ 105.110 Technical review criteria.

Comment. A commenter suggested that the requirement in § 105.106—that the grant will result in improved teaching techniques,
must have been given in the review of applications for exemplary and innovative projects which seek to "eliminate," not "inhibit," sex bias; in other words that the word "eliminate" in paragraph (k) of the technical review criteria be changed to read "eliminate." Another commenter recommended that "sex stereotyping" be added to the criterion on sex bias.

The recommendation is accepted. The sentence is amended to read:

"The application provides appropriate plans to eliminate sex bias and sex stereotyping." This reading of the sentence is more consistent with the definition of sex discrimination in Title VI of the Civil Rights Act of 1964.

Comment. Several commenters recommended that a separate criterion be established to give additional weight to applications for projects that would enhance the planning and implementing of the project.

Response. The technical review criteria do not include a specific weighted criterion for proposed projects on which women or minorities will be employed. Section 105.110(b) does, however, include under "Staff Competencies and Experience" the "use of professional staff members from minorities and who are Indian." The Commissioner will review the applications in relation to the criteria listed in §105.110, including paragraph (h) on staffing and paragraph (k) on elimination of sex biases. Therefore, no change is made in the regulation.

§105.202(b) Applicability of the Indian Self-Determination and Education Assistance Act.

Comment. A commenter asked who determines the extent to which implementation of the regulation concerning the sections of the Indian Self-Determination and Education Assistance Act are relevant and practicable.

Response. The Commissioner of Education is the first person responsible for implementing these regulations. In such a field, it is not unusual for questions to arise which might affect Bureau of Indian Affairs policy. Therefore, the Commissioner will review all applications for guidance. No change is made in the regulation.

§105.203 Definition of Indian tribe.

Comment. A commenter stated that the definition of an Indian tribe and the section on eligibility were over broad, and therefore, read in an inequity for an Indian organization comprised of Indians who reside in urban areas or who are not members of federally recognized tribes. The commenter further stated that Indian organizations that are not federally recognized are eligible for assistance.

Response. Section 103(a) (1) (B) (iii) of the Act is restrictively written with regard to the parties eligible to contract with the Office of Education. By reference, a tribe or tribal organization must comply with the definition in the Indian Self-Determination and Education Assistance Act, which requires that the tribe or tribal organization be federally recognized. Therefore, to be eligible, the tribe must be eligible to contract with the Secretary of the Interior under the Indian Self-Determination and Education Assistance Act.

To the extent that other Federal departments or agencies award grants or enter into contracts with Indian tribes or organizations which are service providers, it is because the definitions of Indian tribe and the standards for eligibility vary. For example, the Indian Education Act defines the term Indian to include "any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future, by the Secretary." Thus, given the less inclusive definition in the Act and the Self-Determination Act, the Commissioner has no authority to fund Indian organizations which are not federally recognized.

Comment. Another commenter stated that because the Act is written so that eligibility for Indian organizations must comply with the definition in the Indian Self-Determination and Education Act, the Commissioner has no authority to fund Indian organizations which are not federally recognized. No change is made in the regulation.

§105.205 Eligible applicants.

Comment. A commenter asked if the contract program for Indian tribes comprised of Indians who are women or minorities will be reviewed in the first instance is responsible for implementing the Self-Determination Act. The commenter further stated that Indian organizations that are not federally recognized, because the Act is written so that eligibility for Indian organizations does not provide statutory authority for the review of applications for the NACIE. Therefore, no change is made in the regulation.

§105.211 Review of applications.

Comment. A commenter suggested that applications be reviewed by the National Advisory Council on Indian Education. Response. While some programs administered under the Indian Education Act, Pub. L. 82-318, as amended, require review by the National Advisory Council on Indian Education (NACIE), the Vocational Education Act does not provide statutory authority for the review of applications by the NACIE. However, the NACIE was afforded an opportunity to review and comment upon the version of the Proposed Rulemaking thereby allowing for input from the Indian community. It is the statutory responsibility of the Commissioner to provide for the review of applications. No change is made in the regulation.

§105.302(b) Length of award.

Comment. A commenter, wishing to assure an award period of adequate length to permit effective education for leadership development, recommended that §105.302(b) be amended to assure a minimum award period of at least 24 months to each approved applicant, that the recommendation be accepted because the expressed intent of the Congress eliminated the policy which in the past has sometimes limited the duration of leadership development awards to one year. Emphasis on a minimum commitment of 24 months would tend to weaken the effect of the present regulation which is addressed to an award period of 12 months. Furthermore, it is not believed to be in the best interest of the awardee or the awardees to weaken in any way the requirements in §105.307 that the awardees perform satisfactorily and that any of the awards be weakened in any way the requirement in §105.307 that the awardees perform satisfactorily and that any of the awards be weakened in any way. No change is made in the regulation.

§105.303 Equitable distribution.

Comment. Several commenters objected to the language in §105.303 which requires that the Commissioner will apportion leadership development awards equitably among the States for the reason that the word "proportion" gives the impression that the awards will be apportioned, by formula, in advance of receipt of applications. They recommended that the sentence be reworded.

Response. This recommendation has been accepted. The proposed regulations which follow section 172(44) of the Act, this language of §105.303 of the regulation is changed to make clear that there will not be a formula allocation of awards to the States.

§105.304 Post-doctoral study.

Comment. A commenter recommended specific prohibitions of awards to post-doctoral students.

Response. It is possible that a person with the doctoral degree in engineering, or any other field, might seek to become a professional leader in vocational education. Although the Act and its legislative history do not specifically address the need for such a leader, there is a need for persons with the doctoral degree in engineering, or any other field, to become a professional leader in vocational education. Therefore, no change is made in the regulation.
not address this point, it cannot safely be assumed that the Congress meant to provide giving an award to such a person. No change is made in the regulation.

§ 105.305 Role of the State board.

Comment. A commenter pointed out that although in H.R. Report No. 94–1088, p. 54, the Congress advises the Commissioner to solicit recommendations from "graduate schools offering these programs," the regulation reads "from representatives of vocational education institutions in institutions of higher education." The commenter notes that the programs might or might not be at the post-baccalaureate or doctoral level.

Response. The point is well taken. However, the Commissioner prefers not to make the suggested change in order to permit and encourage solicitation of recommendations from all levels of instruction, including the doctoral level. No change is made in the regulation.

§ 105.305 Graduate-level study.

Comment. A commenter finds paragraph § 105.305(b) to be "extra-statutory and misrepresentative of H.R. Report No. 94–1088" in that it gives excessive authority to the State board.

Response. The Commissioner was keenly aware of the criticism expressed in H.R. Report No. 94–1088 and took fully into account in drafting the regulation. In light of the legislative history, the regulation is designed to obtain advice from the State board and to use the board as a conduit for securing advice from the "other agencies." On the other hand, the Board has been changed because the applications are sent directly to the Commissioner (rather than through the State boards, as in previous years) and will be reviewed independently by the Commissioner's designees in the Office of Education. For these reasons, the recommendation to revise the regulation is not accepted.

§ 105.305 Advice from others.

Comment. Several commenters objected to having the State board forward to the Commissioner only a summary of its own advice and that of the "other agencies" and "representatives," on the grounds that the authority to prepare such a summary increases unduly the role of the State board.

Response. In order to clarify the role of the State board, the regulation is revised to require the State board to forward the complete statement of advice from each such agency and representative.

§ 105.307 Part-time employment.

Comment. A commenter advised against the part-time employment referred to in paragraph (b), which would then read, "In order to receive a leadership development award and because the applicant's ability is essential, the Wilson Act requires that the applicant submit to the Commissioner's two discretionary programs, "Leadership Development Awards" and "Leadership Training Awards," on the grounds that this requirement would tend to enmesh the leadership development programs with the leadership training programs.

Response. The requirement is accepted and the regulation is changed accordingly. The Congress advises the Commissioner to solicit recommendations from "graduate schools offering these programs," the regulation is revised to require the State board to forward the complete statement of advice from each such agency and representative.

§ 105.309 Application review criteria.

Comment. Many persons took exception to the proposed criteria for judging applications. One wanted the weights of the criteria changed to favor younger, less experienced applicants. Several wanted much more weight given to evidence of intellectual ability as shown by academic achievements. One pointed out the similarity of criteria (b) Leadership potential and criteria, and (e) Human relations skills, which would tend to favor certain candidates. Several wanted the Commissioner to set minimum levels which must be attained for each criterion. Several perceived that the proposed criteria would result in discrimination against women and racial minorities, and proposed that the programs be changed to favor younger, less experienced persons. consequently, the recommendations in this regard were not accepted.

§ 105.309 Application review criteria—academic ability.

Comment. A commenter recommended that the requirement to submit transcripts of grades earned in college, instead of leaving this submission to the option of the applicant, be retained in order to keep track of the applicant's academic performance. Many persons wanted the weight given to evidence of academic ability increased, but the weight given to communication skills has been reduced. It is the policy of the Office of Education to publish the criteria for that purpose, it is the responsibility of the participating institution. A commenter with the same concern wanted the number of awards per institution to be no fewer than ten and no more than twenty.

Response. While there are concerns shared by the Commissioner, § 105.310 was not made more specific because of the need to accommodate possible fluctuations in the level of funding allocated to this program. It is believed that, with judicious use of the right to redistribute award recipients among approved institutions, the effect desired by both commenters will be achieved, whatever the level of funding of the program. No change is made in the regulation.

§ 105.311 Comprehensive graduate programs.

Comment. A commenter recommended that the requirement to submit transcripts of grades earned in college, instead of leaving this submission to the option of the applicant, be retained in order to keep track of the applicant's academic performance. Many persons wanted the weight given to evidence of academic ability increased, but the weight given to communication skills has been reduced. It is the policy of the Office of Education to publish the criteria for that purpose, it is the responsibility of the participating institution. A commenter with the same concern wanted the number of awards per institution to be no fewer than ten and no more than twenty.
the Act. Section 103 requires that a specified portion of the appropriated funds be reserved for use by the Commissioner and that the funds be allocated to the States. The Commissioner's portion and the State's portion cannot be modified without a Congressional amendment. The funds are available for the State-administered part under Section 133 cannot be used to support the Certification Fellowship Program. No change is made in the regulation.

§ 105.431 Teacher or educators.

Comment. Two commenters recommended that in § 105.431 the term "vocational educator" should be changed each time it occurs to "vocational teacher." Response. Although there is merit in the suggestion for use of the more widely used term, teacher, the recommendation is not accepted. The Congress used "educator" in the statute, and without compelling reasons to the contrary, the Commissioner prefers that the regulation use the terminology of the statute. No change is made in the regulation.

§ 105.431 Emphasis on shortage of teachers.

Comment. A commenter recommended that § 105.431(a) be changed to read "** * * * in the fields for which there is a need for vocational teachers and for which there is a shortage.** * * * * " The rationale for adding the phrase "in the fields for which there is a need for vocational teachers" is that there are some fields of vocational education which have a surplus and for which no additional ones should be trained. The commenter wanted the same change in § 105.423(a)(1) for reasons also.

Response. The recommendation is accepted. Although the statute does not require that teachers be needed for vocational teachers in reference to applicants for fellowships who are certified teachers, it does contain the same requirement with respect to applicants who are employed in industry. That both classes of applicants should be treated alike in this respect is supported by points in the statute: first, section 172(c)(1) states that the fellowship program exists "in order to meet the need to provide adequate numbers of teachers ** * * * * " and thereby es- Establishes the overall criterion of need; and second, section 172(c)(7) requires the Commissioner to determine annually, the need of teaching where there is need of additional teachers and to award the fellowships, preferentially, to those in those areas. The amendments will help to assure that the limited funds available to the fellowship program are used where they are most needed.

§ 105.432 Categories of fellows.

Comment. A commenter advised that in paragraph (a) of § 105.432 the word "including" be changed to "other than" on the grounds that if a person has already been certified to teach vocational education, there is no need for additional training.

Response. There is nothing in the statute or its history to suggest that a person who has been a teacher of vocational education in a field where there is no longer employment could not apply for a certification fellowship in order to be able to work in a field where there is need for teachers. Therefore, no change is made in the regulation.

Comment. Another commenter urged that the parenthetical expression in paragraph (a) of § 105.432 be changed to "(including other thirteenth and fourteenth year programs)." The rationale was that there are hundreds of programs at the thirteenth and fourteenth year levels which are not in community or junior colleges and where there are teachers in a variety of fields who should be eligible for consideration as additional educators.

Response. The recommendation is accepted. It seems reasonable to include as potential applicants in the fellowship programs at all programs at the thirteenth and fourteenth grade levels, rather than only those designated as "vocational education." The recommendation is particularly valid because many of the "other" programs are in technical and vocational education. The regulation is changed accordingly.

§ 105.434 Role of the State boards.

Comment. A commenter feared that State boards might be inclined to favor certified teachers, and recommended therefore that a more objective procedure be adopted for reviewing applications.

Response. All applications will be objectively reviewed by the Commissioner, who customarily uses teams of persons drawn from both inside and outside the Office of the Commissioner. The procedure by the State board (with advice from the State advisory council and other agencies and representative individuals) will provide valuable additional information for the Commissioner in reviewing the applications. No change is made in the regulation.

§ 105.434 Advice from others.

Comment. The recommendation regarding § 105.305(b)(1), that the Commissioner interpret the full statement of advice under the Act to mean that in the case of a teacher's certification, the full statement of advice under the Act is intended to mean that advice about applications rather than a mere summary of that advice, was found to be unnecessary. Further support for this recommendation is found in § 105.446, which provides that the Commissioner shall make in the regulation is changed accordingly.

§ 105.440 Eligibility of institutions.

Comment. A commenter asked generally about the difference in stringency of criteria for eligibility of institutions to participate in the Leadership Development Program and the Certification Fellowships Program. Response. The requirements for institutional participation in the Leadership Development Program (§ 105.261) are for work at the level of graduate study and are therefore much more demanding than the requirements for the baccalaureate level fellowships program.

§ 105.441 Priority to areas of need.

Comment. A commenter noted the omission in the regulation of the language in Section 172(o)(7) which requires the Commissioner to give priority in the awarding of fellowships to those which are focused on the designated areas of need for vocational education. Another commenter re-quested that the omission be corrected.

Response. In view of the omission, the recommendation is accepted. Section 105.443(a) is amended by the language: "and will, to the maximum degree possible, award fellowships under § 105.432 to applicants seeking to become teachers in the areas identified." The recommendation is accepted.

§ 105.442 Emphasis on areas of need.

Comment. A commenter wanted § 105.442 amended to recognize the emphasis on areas of fields of vocational education. Additional weights are needed (as required by § 105.441). The amended text would read, "Fast or current skills and experience in the vocational field (s) in which there is a need for additional educators and ** * * * * " The recommendation was that the addition of an item (2) to § 105.442: "inability to find employment in his or her field of previ-ous certification." The rationale was that Section 172(c)(1) includes that qualification but that it has never been omitted by inadvertence.

Response. Both recommendations are accepted. Amendment is made to emphasize the requirement of § 105.441 of the regulation, and a new subsection (3) is added to § 105.442 and reads: "inability to find employment in his or her field of previous certification."

§ 105.443 Emphasis on the handicapped.

Comment. A commenter recommended that the application review criterion related to national need (paragraph (e) of § 105.443) be strengthened by adding special education for the handicapped to paragraph (e) of § 105.443 as a part of the undergraduate program of vocational education.

Response. The Act requires that the undergraduate program of vocational education have adequate support services and disciplines, but does not go beyond suggesting which support services and disciplines shall be included. Since special education for the handicapped is a critical program element, the recommendation is accepted and § 105.443(e)(4) is changed accordingly.

§ 105.443 Additional review criteria.

Comment. A commenter recommended that a fourth category, "women," be added to the list of groups meriting special attention under paragraph (e) of § 105.443, National need. Response. Because of the strong emphasis in the Act on eliminating sex bias and sex stereotyping, the recommendation is accepted. The initial sentence of the paragraph is modified to read: "With particular reference to the elimination of sex stereotyping and to working with the following populations." Further support for this change is found in § 105.641, which provides that the Commissioner will identify areas of teaching in vocational education where there are or will be shortages of personnel. Also a reasonable assumption may be made that there is a shortage of women teachers and of persons capable of teaching women in many areas of vocational education.

Comment. A commenter asks that a fourth category be added to paragraph (f) of § 105.443 to favor applicants who desire to be trained in a "nontraditional" teaching field.

Response. The recommendation is accepted. H.R. Report No. 94-1085, p. 65, supports this non-traditional emphasis which may be interpreted to mean women (or men) teaching in fields traditionally open to the opposite sex, and also to mean any person teaching in a new field or a field not commonly taught.

Comment. A fourth criterion category added to paragraph (f) of § 105.443 reads: "(4) The applicant's intention to become certified in a vocational field not traditionally opened to persons of the applicant's sex, or to become certified in a new field or one not commonly taught."

§ 105.443 Weighting of review criteria.

Comment. Two commenters urged that the weight assigned to "ability to find employment" be increased to 30 points and the weights for criterion (b) Vocational skills be increased to 40 points, with corresponding reductions in the weights assigned to other criteria. The rationale was that cri-terion (b) (2) and (b) are by far the most important.

Response. Due to the overall importance of criteria (a) and (b) the regulation is changed to increase criterion (a) to 36 points and criterion (b) to 80 points, and criterion
§ 105.502 Eligible applicants for emergency assistance for remodeling.

Comment. Commenters indicated that the legislative history does not sustain the argument made on page 10849 of the preamble to the NPE that 34 CFR 105.502(a) was amended to include all LEAs as eligible applicants; to the contrary, they maintain that only LEAs "in urban and rural areas" are eligible and recommend that § 105.502 be amended accordingly.

Response. The recommendation is accepted. Commenters note that only urban and rural LEAs are eligible under this program, and that suburban LEAs are not eligible. Section 105.502(a) amended to limit eligibility to LEAs in urban and rural areas and definitions on "urban" and "rural" have been added. Since these definitions apply only to the emergency facilities program, they are not repeated among the definitions of general applicability in Appendix A.

§ 105.504 Functions of the State board in relation to applications for emergency assistance for remodeling.

Comment. A commenter asked what the State board must do in relation to applications by LEAs for emergency assistance for remodeling and renovation. The commenter questioned whether the State board makes the decision on funding in the State and suggested that the State board's functions be specified in the regulation.

Response. Section 105.504(a) of the Act requires that the State board must submit an application to the Commissioner through the State board. This requirement is repeated in § 105.504 of the regulation. Section 105.504(a) of the Act requires that each application contain "such other information as the State board determines to be appropriate." This requirement is repeated in § 105.504(g) of the regulation. Thus, the Act and the regulation require the application to be sent to the State board and not the Commissioner, as the commenter suggested.

Comment. The Commissioner has the responsibility to review the applications and make determinations as to whether or not the applications meet the criteria set forth in section 105.503. The commenter suggested that the application be submitted directly to the Commissioner. The regulation reflects this procedure. In addition, the regulation is amended to require that the State board submit its comments to the Commissioner within 30 days following the closing date for applications.

§ 105.511 Bilingual Vocational Instructor Training Program.

Comment. A commenter recommended that the Commissioner make an effort to simplify the vocational education programs within the Vocational Education Act and also to develop an effective means of coordinating these programs with similar teacher training programs administered by the Office of Education. This commenter contended that, without simplification and coordination, American education will be confronted with overlapping and inefficient management.

Response. The Vocational Education Act contains provisions for teacher training programs. The Vocational Education Personnel Training Program set forth in 105.72 is a State-administered program. The Vocational Instructor Training Program in § 105.611 addresses a specific need to improve the quality of vocational training. The Vocational Education Leadership Development Program in § 105.610 addresses a need for increased opportunities for leadership development in advanced study of vocational education.

Comment. One commenter strongly supported a comment recorded in response to the NOI that the definition of vocational education should be expanded to include two guidance elements and thus reduce the need for funding guidance as a supportive service.

Response. While there is merit in the commenter's recommendation of specific action in the Act (Sec. 105.11) does not include vocational guidance and counseling, no change is made in the regulation.

APPENDIX A

DEFINITION

Comment. One commenter strongly supported a comment recorded in response to the NOI that the definition of vocational education should be expanded to add two requirements that the program:

(1) "employs and compensates student-learners in conformity with Federal, State, and local laws and regulations in a manner not resulting in exploitation of the student-learner for private gain, and

(2) "is conducted in accordance with written agreements between local educational agencies and employers."

Response. While the recommendation raises two very important points, the definition of "cooperative education" comes directly from section 105.11(b) of the Act and is retained. The comments are added as requirements in the Cooperative Vocational Education Programs in § 105.51 as new paragraphs (c) and (d).

APPENDIX B—CURRICULUM MATERIALS

Comment. A commenter suggested an alternative definition of "curriculum materials" the following:

"Curriculum materials" means instructional resources both print and non-print, used in any teaching and learning process designed to prepare persons for employment or to upgrade the competencies of persons previously or presently employed in any occupational field.

Response. While the proposed definition has much merit, particularly in the limiting curriculum materials to print materials, the definition in the Appendix comes from section 105.30 of the Act and is retained.

APPENDIX C—FINANCIAL ABILITY.

Comment. A commenter recommended that a definition of "financial ability," added, to define the term as used in section 105.6(a) (2) (1) of the Act.

Response. The recommendation is accepted. A definition of "financial ability," taken from the House Report (H. Rept. No. 94-1066, p. 84) is added.

APPENDIX D—HANDICAP.

Comment. Many commenters objected to that part of the definition of handicapped which included "learning disabilities to the extent that the disability is a health impairment," pointing out that many learning disabilities (LD) are not health-related problems at all, but are learning-related problems (perceptual handicaps, brain injury, dyslexia or developmental orthopedic). Commenters recommended that in the definition in Appendix C to the Vocational Education Act should conform to the definition of the Education of the Handicapped Act, Pub. L. 94-142 and the regulations thereunder.

Response. The Technical Amendments (Pub. L. 95-40) confirmed the definition of "handicapped" in the Vocational Educatio-
tion Act to that in the Education of the Handicapped Act. The amended definition includes "specific learning disabilities" as a handicapping condition. The definition of "specific learning disabilities" will be consistent with the definition finally promulgated by the Commissioner under the Education of the Handicapped Act. It will be necessary to look to the regulations under the Education of the Handicapped Act as published in final form for the definition of "specific learning disabilities."

APPENDIX—"HIGH SCHOOL"

Comment. A commenter recommended a definition of "high school" be added to replace that of "secondary programs."

Response. The recommendation has been accepted by adding the definition of "high school program" and revising the definition of "secondary program" as follows:

"High school program" means vocational education for persons in grades 9 through 12.

"Secondary program" means vocational education for persons in secondary grades as defined by State law.

APPENDIX—"INSTRUCTIONAL TECHNOLOGY"

Comment. A commenter objected that the definitions do not include a definition of "instructional technology" since instructional technology "is playing an ever increasing role in the armed services, industry, government, medicine and the whole of education." No proposed definition was included in the comment.

Response. While there are many terms which could be defined, the Appendix contains only definitions of terms which must be defined for interpretation of the Act or the regulation. A definition of "instructional technology" is not necessary for interpretation of the Act or regulation, and for that reason, is not added to the Appendix. No change is made in the regulation.

APPENDIX—"LIMITED ENGLISH-SPEAKING ABILITY"

Comment. Several commenters have recommended that a definition of "limited English-speaking ability" be added, to define the term as it is used in §§ 104.203(b) (2) and 104.317(a) (3) as to the 20 percent set-aside part of which is used for persons of limited English-speaking ability.

Response. The recommendation is accepted. A definition of "limited English-speaking ability" (LESA) has been added in its alphabetical order in the Appendix. The definition is that used in section 703(e) (1) of the Bilingual Education Act, 20 U.S.C. 1480b-1. This definition will explain the term as used in §§ 104.203(b) (2), 104.313(a) (2) and 105.601.

APPENDIX—"POSTSECONDARY PROGRAMS"—CERTIFICATE OF COMPLETION

Comment. Many commenters suggested adding to the definition of "postsecondary programs" those programs leading to a certificate of completion of hours of study or certificate of completion of a series of courses.

Response. The House Report (H. Rept. No. 95-1085, p. 48) indicates that Congress did not intend that persons working toward certificates of completion should be considered under the definition of "postsecondary programs." For that reason the suggestion was not accepted. No change is made in the regulation.

APPENDIX—"SECONDARY PROGRAM"

Comment. A commenter urged that the word "usually" be dropped from the definition of "secondary" and that the grades be specified as "beginning with grade 9 and ending with grade 12."

Response. The definition of "secondary program" has been rewritten to leave to determinations by State law the span of grades considered as "secondary." A definition of "high school" has also been added to the Appendix.

APPENDIX—"VOCATIONAL EDUCATION"—GUIDANCE

Comment. A commenter strongly urged that the definition of vocational education should be broadened to include guidance elements and thus reduce the need for funding guidance as a supportive service.

Response. While there is merit in the comment, the definition of vocational education in the Act (Sec. 105(1)) does not include vocational guidance and counseling. No change is made in the regulation.

APPENDIX—"VOCATIONAL INSTRUCTION"

Comment. A commenter objected that the definition of "vocational instruction" does not include planning, assessment, and evaluation.

Response. Planning, assessment, and evaluation are not elements of the statutory definition of "vocational instruction." For that reason they should not be included in the definition of "vocational instruction" in § 104.612 or in the Appendix. No change is made in the regulation.

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