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Thursday
May 24, 1979

Highlights

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30069 **Refugee Assistance** Presidential determination

30247 **Water and Related Land Resources** WRC proposes to publish manual of procedures for evaluation of National Economic Development benefits and costs in water resources planning; comments by 7-27-79, meetings July 1979 (Part II of this issue) 030194

30194 **Water and Related Land Resources** WRC proposes to revise and modify Principles and Standards for Planning Water and Related Land Resources; comments by 7-29-79 (Part II of this issue)

30288 **Water Resources Plans** DOD/ Engineers proposes to establish evaluation procedures for projected employment; comments by 6-22-79 (Part V of this issue)

30306 **Radioactive Contamination From Specified Foreign Nuclear Detonations** · EPA publishes a memorandum of understanding among AF, DOE, EPA, FAA, FDA, NOAA, and NRC (Part VII of this issue)

Highlights

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30278 **Small Hydroelectric Power Projects** DOE proposes implementation of loans for feasibility studies and related licensing; comments by 6-22-79, hearings 6-25, 6-28, and 7-2-79, requests to speak by 6-11-79 (Part IV of this issue)

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Presidential Documents

Title 3—

The President

Proclamation 4662 of May 22, 1979

National Hispanic Heritage Week, 1979

By the President of the United States of America

A Proclamation

From the earliest days of our Nation's history, Hispanics have played a central role in our country's development. First as explorers, then as settlers, and today as leaders in all segments of society, men and women of Hispanic ancestry have contributed greatly to our national heritage.

As a nation, we have not always properly appreciated these contributions. Too often, Hispanics have been the victim of stereotypes and prejudice. Even today, Hispanics endure a disproportionately high unemployment rate. As a nation, we must reaffirm our commitment to eliminate these residues of prejudice and bigotry.

Our Hispanic American communities continue to grow with our Nation. They share with our Nation a deep pride in their language and culture, and a sense of justice and compassion which nurtures our democratic system and keeps it progressing. It is important that we recognize these singular benefits and encourage their perpetuation.

This country must continue to provide its many ethnic groups with the opportunity to contribute their ideas, their experience, and their energies to the betterment of our society. We must be receptive to the richness of diverse cultures, but we also must work to assure that all Americans benefit in turn from the resulting improvements. With the assistance of our Hispanic citizens and through our own continued commitment, these goals will be achieved.

In 1968, our government formally acknowledged the value of our Hispanic heritage when Congress by joint resolution (82 Stat. 848) asked that the President issue an annual proclamation designating the week including September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning Monday, September 10, 1979, as National Hispanic Heritage Week. I ask that all Americans reflect on the Hispanic heritage of our Nation and on the need to assure that all citizens share in the prosperity and abundance of our great country.

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

Jimmy Carter

[FR Doc. 79-16449
Filed 5-22-79; 4:00 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 79-9 of May 3, 1979

Determination Pursuant to Section 2(c)(a) of the Migration and Refugee Assistance Act of 1962, as Amended, (the "Act") Authorizing the Use of $1,875,000 of Funds Made Available From the United States Emergency Refugee and Migration Assistance Fund

Memorandum for the Secretary of State

In order to meet emergency financial requirements related to the continued processing and movement of refugees from Indochina and Eastern Europe, including the Soviet Union, to the United States, carried out by the Intergovernmental Committee for European Migration and certain private voluntary resettlement agencies, I hereby determine, pursuant to Section 2(c)(1) of the Act, that it is important to the national interest that up to $1,875,000 from the United States Emergency Refugee and Migration Assistance Fund be made available for a grant to the Intergovernmental Committee for European Migration and such private voluntary resettlement agencies through the Department of State toward these processing and transportation expenses.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination and the obligation of funds under this authority.

The Determination shall be published in the Federal Register.

Jimmy Carter

THE WHITE HOUSE,
Washington, May 3, 1979.

[FR Doc. 79-16489
Filed 5-22-79; 4:11 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 613]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 25–31, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 22, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is good.

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

§ 908.913 Valencia Orange Regulation 613.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 25, 1979, through May 31, 1979, are established as follows:

(1) District 1: 442,000 cartons;

(2) District 2: 308,000 cartons;

(3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

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

Dated: May 23, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-16573 Filed 5-23-79 11:11 am]

BILLING CODE 3410-02-M

7 CFR Parts 915 and 944

[Avocado Reg. 21; Avocado Reg. 27]

Avocados Grown in South Florida and Imported Avocados; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations specify minimum grade and maturity requirements for avocados grown in South Florida, and for avocados imported into the United States, for the 1979–80 marketing season. These requirements are designed to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of producers and consumers.

DATES: Effective May 28, 1979, through April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915; 43 FR 39321), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The avocado import regulation is issued under section 8e (7 U.S.C. 608e–1) of this act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program. Notice of these proposed regulations was published in the May 1, 1979, issue of the Federal Register (44 F.R. 25460). No comments were received during the 16 days provided in the notice. It is hereby found that these regulations will tend to effectuate the declared policy of the act. These regulations have not been determined significant under the USDA criteria for implementing Executive Order 12044.

These grade and maturity requirements reflect the Department's appraisal of the need for regulating avocados during the period May 29, 1979, through April 30, 1980, based on the available supply and market demand conditions. Production of

Florida avocados for the 1979–80 season is expected to amount to a record 1,250,000 bushels compared with nearly 900,000 produced during the 1978–79 season. Shipment of this crop is expected to begin in late May. California is currently producing what is expected to be a record large crop of avocados.These regulations would establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color would also be authorized as an alternative method of determining maturity, for those varieties which turn red or purple when mature. These requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity to provide consumer satisfaction, essential for the successful marketing of the crop, in the interest of producers and consumers pursuant to the declared policy of the act. The requirements for imported avocados are consistent with section 8e of the act. This section requires that when specified commodities, including avocados, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

After consideration of all relevant matter presented, including the proposals in the notice and other available information it is found that the regulations, as hereinafter set forth, are necessary to establish and maintain orderly marketing conditions, and that they are in accordance with this marketing agreement and order, and will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this regulation until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as herein after set forth in that (1) shipments of the current crop of avocados grown in South Florida are expected to begin on or about the effective date hereof, and the regulation for Florida avocados should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) the recommendations upon which the regulation for Florida avocados is based were developed by the committee at an open meeting on April 4, 1979, after due notice thereof, and all interested persons present were given an opportunity to express their views; (3) notice of these proposed regulations for avocados grown in South Florida and for avocados imported into the United States was published in the May 1, 1979, issue of the Federal Register.(44 FR 25460), and no comments were received during the 16 days provided; (4) the regulatory requirements herein specified for Florida avocados and imported avocados are the same as those in the proposed regulations; (5) the requirements of the import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (6) such import regulation imposes the same grade and comparable maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under Avocado Regulation 21, which becomes effective May 28, 1979; (7) such domestic and import regulations should become effective at as near the same time as is reasonably practicable; and (8) three days notice thereof, the minimum prescribed by said § 8e, is given with respect to this import regulation.

Accordingly, it is found that requirements for Florida avocados and for imported avocados should be and are established as follows:

§ 915.321 Avocado Regulation 21.

(a) During the period May 28, 1979, through April 30, 1980, no handler shall handle:

(1) Any avocados unless they grade at least U.S. No. 3: *Provided,* That avocados not meeting this grade requirement may be handled within the production area, if they meet the other requirements of this section and are handled in containers other than those authorized in § 915.305 for handling avocados between the production area and any point outside thereof.

(2) Any avocados of the varieties listed in column 1 of Table I of this section, prior to the date listed for each variety in column 2 of the table.

(3) Any avocados unless the individual fruit weighs at least the ounces specified, or it is of at least the diameter specified for each variety listed: (i) In column 3 of Table I, from the date listed in column 2 of the table to the date listed in column 4 of the table for each variety; (ii) in column 5 of Table I, from the date listed in column 4 of the table to the date listed in column 6 of the table for each variety; and (iii) in column 7 of Table I, from the date listed in column 6 of the table to the date listed in column 8 of the table for each variety.

(4) Avocados of the West Indian Seedling type not listed in Table I, except as provided in paragraphs (b) and (c), unless the following conditions are met:

(i) Avocados of this type shall not be handled prior to July 2, 1979.

(ii) From July 2, 1979, through July 29, 1979, the individual fruit weighs at least 18 ounces.

(iii) From July 30, 1979, through September 2, 1979, the individual fruit weighs at least 16 ounces.

(iv) From September 3, 1979, through October 1, 1979, the individual fruit weighs at least 14 ounces.

(5) Any avocados of those varieties not listed in Table I, or in subparagraph (4) of this section, including those of the Guatemalan type, hybrid seedlings, and unidentified Guatemalan and hybrid varieties, except as provided in paragraphs (b) and (c), unless the following conditions are met:

(i) Such avocados shall not be handled prior to September 17, 1979.

(ii) From September 17, 1979, through October 14, 1979, the individual fruit weighs at least 15 ounces.

(iii) From October 15, 1979, through December 16, 1979, the individual fruit weighs at least 13 ounces.

(b) With respect to the provisions of this section regarding the minimum weight or diameter for individual avocados, up to 10 percent, by count, of the individual fruit in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided,* That such avocados weigh not more than two ounces less than the weight specified for the particular variety: *Provided further,* That up to double such tolerances shall be permitted for fruit in an individual container in a lot.

(c) Any avocados, except for the Linda variety, may be handled without regard to the handling date or weight requirements specified in this section if the variety of avocados normally changes color to any shade of red or purple when mature, and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(d) Terms used in this section shall mean the same as in the marketing order. The term "diameter" shall mean the greatest dimension measured at a right angle to a line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" shall mean the same as in the U.S. Standards for Florida Avocados (7 CFR 2851.3050–3069).

Table I

Variety (1)	Date (2)	Minimum weight or diameter (3)	Date (4)	Minimum weight or diameter (5)	Date (6)	Minimum weight or diameter (7)	Date (8)
Kosel	5-28-79	16 oz.	6-11-79	13 oz.	6-25-79		
Arue	5-28-79	16 oz.	6-11-79	14 oz. 3 9/16 in.	7-16-79		
Roland 2-2	6-11-79	22 oz.	6-25-79	20 oz.	7-16-79		
J. M. Poropat	6-18-79	20 oz.	6-25-79	18 oz.	7-16-79	16 oz.	7-30-79
Fuchs	6-18-79	14 oz. 3 9/16 in.	7-2-79	12 oz. 3 9/16 in.	7-16-79		
Dr. DuPuis No. 2	6-18-79	16 oz. 3 9/16 in.	7-2-79	14 oz. 3 7/16 in.	7-16-79	12 oz. 3 5/16 in.	7-30-79
K-5	6-25-79	18 oz. 3 5/16 in.	7-9-79	14 oz. 3 3/16 in.	7-23-79		
Hardee	7-2-79	16 oz. 3 3/16 in.	7-9-79	14 oz. 2 15/16 in.	7-30-79		
Pollock	7-2-79	18 oz. 3 11/16 in.	7-16-79	16 oz. 3 7/16 in.	7-30-79	14 oz. 3 5/16 in.	8-13-79
Simmonds	7-2-79	16 oz. 3 3/16 in.	7-16-79	14 oz. 3 7/16 in.	7-30-79	12 oz. 3 1/16 in.	8-13-79
Nadir	7-2-79	14 oz. 3 3/16 in.	7-9-79	12 oz. 3 1/16 in.	7-16-79	10 oz. 2 15/16 in.	7-30-79
Katherine	7-2-79	16 oz.	7-16-79	14 oz.	7-30-79		
Haile	7-2-79	20 oz.	7-16-79	16 oz.	7-23-79	14 oz.	8-13-79
Donnie	7-9-79	16 oz. 3 5/16 in.	7-23-79	14 oz. 3 5/16 in.	8-20-79		
Ruehle	7-16-79	18 oz. 3 11/16 in.	7-23-79	16 oz. 3 5/16 in.	7-30-79	14 oz. 3 1/16 in.	
					8-13-79	12 oz. 3 5/16 in.	8-27-79
Dawn	7-16-79	12 oz. 3 5/16 in.	7-30-79	10 oz. 3 9/16 in.	8-13-79		
Webb-2	7-16-79	18 oz.	7-30-79	16 oz.	8-13-79		
Cash	7-16-79	16 oz.	10-1-79				
Alpha	7-23-79	16 oz. 3 9/16 in.	8-13-79				
Biondo	7-23-79	13 oz.	8-27-79				
Peterson	7-23-79	14 oz. 3 5/16 in.	8-6-79	10 oz. 3 3/16 in.	8-20-79		
232	7-30-79	14 oz.	8-13-79	12 oz.	8-27-79		
Gretchen	7-30-79	14 oz.	8-13-79	12 oz.	8-27-79		
Trapp	7-30-79	14 oz. 3 15/16 in.	8-13-79	12 oz. 3 7/16 in.	8-27-79		
B. & B.	7-30-79	16 oz. 3 5/16 in.	9-3-79				
Waldin	8-13-79	16 oz. 3 5/16 in.	8-27-79	14 oz. 3 7/16 in.	9-10-79	12 oz. 3 1/16 in.	9-24-79
Pinelli	7-30-79	18 oz. 3 15/16 in.	8-13-79	16 oz. 3 15/16 in.	8-27-79		
Miguel	7-30-79	22 oz. 3 15/16 in.	8-13-79	20 oz. 3 15/16 in.	8-27-79	18 oz. 3 9/16 in.	9-10-79
Nesbitt	7-30-79	22 oz. 3 15/16 in.	8-13-79	18 oz. 3 9/16 in.	8-20-79	16 oz. 3 5/16 in.	9-3-79
Chapple	7-30-79	18 oz.	8-27-79				
Millie-D	8-13-79	18 oz.	9-10-79				
Shula	8-13-79	22 oz.	9-3-79				
Tonnage	8-13-79	16 oz. 3 5/16 in.	8-27-79	14 oz. 3 1/16 in.	9-3-79	12 oz. 3 5/16 in.	9-10-79
Beta	8-13-79	18 oz. 3 5/16 in.	8-20-79	16 oz. 3 5/16 in.	9-10-79		
K-9	8-13-79	16 oz.	9-3-79				
Gorham	8-13-79	29 oz. 4 5/16 in.	8-27-79	27 oz. 4 3/16 in.	9-10-79		
Tower-2	8-13-79	14 oz. 3 5/16 in.	8-27-79	12 oz. 3 1/16 in.	9-17-79		
The Franvee	8-20-79	23 oz.	9-17-79				
Lisa	8-20-79	12 oz. 3 3/16 in.	8-27-79	11 oz. 3 9/16 in.	9-3-79		
Fairchild	8-27-79	16 oz. 3 15/16 in.	9-10-79	14 oz. 3 7/16 in.	9-24-79	12 oz. 3 11/16 in.	10-1-79
Nirody	8-27-79	18 oz. 3 15/16 in.	9-10-79	16 oz. 3 15/16 in.	9-24-79		
Loretta	8-27-79	28 oz. 4 1/16 in.	10-8-79				
Booth 8	9-10-79	16 oz. 3 5/16 in.	10-1-79	14 oz. 3 5/16 in.	10-15-79	10 oz. 3 1/16 in.	10-29-79

Table I—Continued

Variety (1)	Date (2)	Minimum weight or diameter (3)	Date (4)	Minimum weight or diameter (5)	Date (6)	Minimum weight or diameter (7)	Date (8)
Black Prince	9-10-79	23 oz. 3 15/16 in.	9-24-79	16 oz. 3 3/16 in.	10-5-79		
Catalina	8-27-79	24 oz.	9-10-79	22 oz.	10-1-79		
Csonka	9-17-79	22 oz.	10-15-79				
Blair	9-10-79	16 oz. 3 5/16 in.	9-24-79	14 oz. 3 1/16 in.	10-15-79		
Collinson	9-24-79	16 oz. 3 15/16 in.	10-22-79				
Chico	9-24-79	12 oz. 3 1/16 in.	10-8-79	10 oz. 3 1/16 in.	10-22-79		
Rue	9-24-79	30 oz. 4 5/16 in.	10-1-79	24 oz. 3 15/16 in.	10-15-79	18 oz. 3 5/16 in.	10-29-79
Brooks 1978	10-8-79	10 oz.	10-15-79	8 oz.	11-12-79		
Booth 5	9-17-79	14 oz. 3 5/16 in.	10-1-79	12 oz. 3 5/16 in.	10-15-79		
Hickson	9-24-79	12 oz. 3 1/16 in.	10-8-79	10 oz. 3 3/16 in.	10-22-79		
Simpson	10-1-79	16 oz. 3 5/16 in.	10-22-79				
Vaca	10-1-79	16 oz. 3 5/16 in.	10-22-79				
Sherman	10-1-79	16 oz.	10-15-79	14 oz.	10-29-79	10 oz.	11-19-79
Marcus	9-17-79	32 oz. 4 13/16 in.	10-1-79	24 oz. 4 5/16 in.	11-12-79		
Booth 10	10-8-79	16 oz. 3 15/16 in.	11-5-79				
Booth 7	9-10-79	18 oz. 3 13/16 in.	9-24-79	16 oz. 3 15/16 in.	10-8-79	14 oz. 3 5/16 in.	10-22-79
Aven	10-8-79	15 oz. 3 11/16 in.	10-29-79				
Booth 11	10-8-79	16 oz. 3 13/16 in.	10-29-79				
Leona	10-8-79	18 oz. 3 15/16 in.	10-22-79				
Winslowson	10-8-79	18 oz. 3 15/16 in.	10-29-79				
Nelson	10-8-79	14 oz. 3 5/16 in.	10-22-79	12 oz. 3 1/16 in.	11-5-79	10 oz. 3 1/16 in.	11-26-79
Hall	10-8-79	26 oz. 3 11/16 in.	10-22-79	20 oz. 3 5/16 in.	11-5-79	18 oz. 3 5/16 in.	11-19-79
Lula	10-15-79	18 oz. 3 11/16 in.	10-29-79	14 oz. 3 1/16 in.	11-12-79	12 oz. 3 3/16 in.	11-26-79
Choquette	10-1-79	24 oz. 4 1/16 in.	10-15-79	20 oz. 3 15/16 in.	10-29-79	16 oz. 3 3/16 in.	11-12-79
Monroe	11-12-79	24 oz. 4 1/16 in.	11-26-79	20 oz. 3 15/16 in.	12-10-79	16 oz. 3 3/16 in.	12-24-79
Herman	10-15-79	16 oz. 3 5/16 in.	10-29-79	14 oz. 3 5/16 in.	11-12-79		
Murphy	10-15-79	16 oz. 3 5/16 in.	10-29-79	14 oz.	11-12-79	11 oz.	12-3-79
Ajax (B-7)	10-22-79	18 oz. 3 15/16 in.	11-12-79				
Booth 1	11-19-79	16 oz. 3 13/16 in.	12-3-79	12 oz. 3 5/16 in.	12-17-79		
Booth 3	10-22-79	16 oz. 3 5/16 in.	10-29-79	14 oz. 3 5/16 in.	11-12-79		
Taylor	10-22-79	14 oz. 3 1/16 in.	11-5-79	12 oz. 3 3/16 in.	11-19-79		
Dunedin	11-5-79	16 oz. 3 15/16 in.	11-19-79	14 oz. 3 5/16 in.	12-3-79	10 oz. 3 1/16 in.	12-24-79
Byers	11-12-79	16 oz. 3 15/16 in.	12-3-79				
Linda	11-12-79	18 oz. 3 13/16 in.	12-3-79				
Nabal	11-12-79	14 oz. 3 7/16 in.	12-3-79				
Zio	11-26-79	12 oz. 3 5/16 in.	12-10-79	10 oz. 2 15/16 in.	12-24-79		
Wagner	12-3-79	12 oz. 3 5/16 in.	12-17-79	10 oz. 3 3/16 in.	12-31-79		
Meya	12-24-79	13 oz. 3 5/16 in.	1-7-80	11 oz. 3 3/16 in.	1-21-80		
Brookslate	12-31-79	14 oz. 3 5/16 in.	1-21-80	12 oz. 3 3/16 in.	2-4-80	10 oz.	2-18-80
Schmidt	12-3-79	16 oz.	12-31-79				
Itzamna	2-11-80	12 oz.	2-18-80				

§ 944.19 Avocado Regulation 27.

(a) *Applicability to imports.* Pursuant to § 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period May 28, 1979, through April 30, 1980, unless such avocados meet the minimum grade and maturity requirements specified in § 915.321 Avocado regulation 21: *Provided,* That avocados of the Pollock, Catalina, and Trapp varieties shall meet the applicable maturity requirements specified in subparagraphs (2) and (3) and related Table 1; all other varieties of avocados of the West Indian type shall meet the maturity requirements specified in subparagraph (4); and all other varieties of avocados of the Guatemalan type, including hybrid seedlings, and unidentified Guatemalan and hybrid varieties shall meet the requirements specified in subparagraph (5), consistent with the weight and diameter tolerances specified in paragraph (b), and the alternative method of determining maturity specified in paragraph (c).

(b) It is hereby found that it is not practicable to impose the same requirements for imported avocados as those for domestically grown avocados, except as provided in paragraph (a) of this section; and that the requirements specified in paragraph (a) of this section for imported avocados are comparable to those in Avocado Regulation 21, for Florida avocados.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Certification (7 CFR Part 944; 43 FR 19340).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) Any person may recondition any shipment of avocados prior to importation, to make it eligible for importation.

(f) *Minimum quantity exemption:* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

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

Dated: May 22, 1979, to become effective May 28, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-16364 Filed 5-23-79; 8:45 am]

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7 CFR Part 981

Administrative Rules and Regulations; Almonds Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes several changes in the administrative rules and regulations pertaining to reporting and quality control to standardize reporting and relieve unnecessary burdens on almond packers.

DATES: Effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Higgins (202) 447–5053.

SUPPLEMENTARY INFORMATION: Notice was published in the April 23, 1979, Federal Register (44 FR 23857) to amend Subpart-Administrative rules and Regulations (7 CFR 981.441–981.474; 43 FR 47969, 56012) by revising §§ 981.442, 981.455 and 981.472. The Almond Board of California submitted the one comment received.

The subpart is issued under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California.

The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposals were based on a recommendation of the almond Board of California.

Section 981.42 of the order provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent [1] of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of this provision. Section 981.442 of the administrative rules and regulations implements § 981.42.

Section 981.442 provides, among other things, for each handler to report to the Board the quantity of almonds received from growers. However, that section does not provide adjustment for excess moisture in those receipts. Moreover, the order and the administrative rules and regulations do not define "excess moisture". Based on several years' operation under this section, the Board has found that, while some handlers are making adjustments for excess moisture in reporting their receipts of almonds to the Board and to growers, these adjustments are not always uniform and to that extent, the information reported by handlers is not uniform.

Therefore, a new § 981.401, is added which defines "adjusted kernel weight" in paragraph (a) of that section. For clarity, paragraph (b) of that section contains an example demonstrating how the "adjusted kernel weight" would be computed. Except for Peerless bleaching stock, "adjusted kernel weight" means the actual gross weight of any lot of almonds: Less weight of containers; less moisture of kernels in excess of five percent; less shells, if applicable; and

[1] This percentage has been changed to one and one-half percent (42 FR 56487), except for the 1978–79 crop year (ending June 30, 1979), the percentage is three percent (43 FR 56012).

less trash or other foreign material. The adjusted kernel weight will be determined by sampling certified by the inspection agency. Peerless bleaching stock is shipped as unshelled almonds and the adjusted kernel weight of these almonds would be 35 percent of the clean bleachable weight. This is the shelling ratio prescribed in the order for determining the kernel weight of unshelled Peerless almonds.

To achieve uniformity in reporting receipts of almonds, §§ 981.442(a)(3) and (4) and 981.472(a) and (b) are revised so that handler receipts are reported by them on an adjusted kernel weight basis. In addition, since § 981.401(b) sets forth the manner in which the adjusted kernel weight will be computed, the provision in § 981.442(a)(3) allowing for shellout loss in unnecessary and is to be deleted.

Section 981.455 provides for transfers of almonds and reserve credits from one handler to another. However, it does not provide for transfers of a handler's disposition obligation pursuant to § 981.42(a). A handler may resell an unsorted lot of almonds to another handler. In that case, it is inequitable to require the transferring handler to meet the disposition obligation, especially since, in transferring the lot, the handler divested itself of that portion of the lot which created the obligation and would be removed in the course of processing. Therefore, § 981.455 is revised by the addition of a new paragraph (c) which prescribes procedures for such transfers. Paragraph (c) will permit transfer of inedible obligation, with the approval of the Board, only when the inedible kernels are physically transferred with the entire lot of almonds.

In the notice, it was proposed that the transfer would be reported by the transferring handler to the Board. However, this reporting requirement has been changed in the rule to the receiving handler. As the Board noted in its comment, the last sentence of the section should read ". . . and submitted by the receiving handler to the Board for approval." The transferring handler initiates the ABC Form 9 and sends it to the receiving handler who acknowledges receipt of the lot and the obligation. Both the transferring and receiving handlers must signify that the transaction has been accomplished to the satisfaction of each, before the Board can make a determination that it meets the requirements of the Order and thus gives its approval. Further, the Form 9 is in the hands of the receiving handler last; it is in a better position to submit completed Form 9 to the Board than is the transferring handler.

Section 981.442(a)(5) provides that each handler meet its disposition obligation by delivering packer pickouts and other kernel material to nonhuman consumption outlets, if the inspection agency of the Board has sampled the deliveries. However, for handlers who only deliver very small quantities for disposition credit, the cost is a disproportionate burden, often requiring considerable time and effort by the inspection agency and the handler. Therefore, § 981.442(a)(5) is amended by providing that in the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which case the Board would certify the disposition and report the results to the USDA.

After consideration of all relevant matter presented, including that in the notice, the comment received, the recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

PART 981—ALMONDS GROWN IN CALIFORNIA

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.474; 43 FR 47969; 56012) is amended as follows:

1. Section 981.401 is added to read as follows:

§ 981.401 Adjusted kernel weight.

(a) *Definition.* Except for Peerless bleaching stock, "adjusted kernel weight" shall mean the actual gross weight of any lot of almonds: Less weight of containers; less moisture of kernels in excess of five percent; less shells, if applicable; and less trash or other foreign material. The adjusted kernel weight shall be determined by sampling certified by the inspection agency. The kernel weight of Peerless bleaching stock shall be 35 percent of the clean bleachable weight.

(b) *Computation.* Except for Peerless bleaching stock, the computation of adjusted kernel weight shall be in the manner shown in the following example. The example is based on the analysis of a 1,000 gram sample taken from a lot of almonds weighing 10,000 pounds. The sample contains the following: Edible kernels, 530 grams; inedible kernels, 120 grams; foreign material, 350 grams; and moisture content of kernels, seven percent. Excess moisture is two percent. The sample computation is as follows:

	Percent of sample	Weight (pounds)
1. Actual gross weight of delivery		10,000
2. Percent of edible kernels	53.00	
3. Less excess moisture of edible kernels (excess moisture × line 2)	1.06	
4. Net percent shell out (line 2 − line 3)	51.94	
5. Net edible kernels (line 4 × line 1)		5,194
6. Total percent of inedible kernels (from sample)	12.00	
7. Less excess moisture of inedible kernels (excess moisture from sample × line 6)	.24	
8. Net percent inedible kernels (line 6 − line 7)	11.76	
9. Total inedible kernels (line 8 × line 1)		1,176
10. Adjusted kernel weight (line 5 + line 9)		6,370

2. Section 981.442 is amended to read as follows:

§ 981.442 Quality control.

(a) * * *

(3) *Analysis of sample.* Each sample shall be analyzed by or under the surveillance of the inspection agency to determine the kernel content and the proportion of inedible kernels in the sample. The inspection agency shall prepare a report for each handler showing, by variety, the total adjusted kernel weight received by handler, the inedible kernel weight and any other information as the Board may prescribe. The report shall cover the handler's daily receipt or the handler's total receipts during a period not exceeding one month, and shall be submitted by the inspection agency to the Board and the handler.

(4) *Disposition obligation.* The weight of inedible kernels in excess of one and one-half percent of the adjusted kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligations, except for the 1978–79 crop year ending June 30, 1979, this percentage shall be three percent. If a variety other than Peerless is used as bleaching stock, the

weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

(5) *Meeting the disposition obligation.* Each handler shall meet its disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes, on record with the Board as Accepted Users. In the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which the case the Board would certify the disposition lot and report the results to the USDA. For dispositions by handlers with the mechanical sampling equipment, samples may be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The almond meat content of each delivery shall be reported to the Board and the handler and credited to the handler's disposition obligation on ABC Form 8. Deliveries containing less than 10 percent almond meat content shall not be credited against the disposition obligation. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred.

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3. Section 981.455(c) is added to read as follows:

§ 981.455 Interhandler transfers

* * * * *

(c) Transfer of inedible obligation may be made, with the approval of the Board, only when the inedible kernels are physically transferred with the entire lot of almonds. The transfer of the lot shall be reported on ABC Form 9, showing date of transfer and, for the transferring handler, the (1) original inspection certificate number, (2) total weight shown on the certificate, and (3) weight of inedible kernels shown on the certificate. For the receiving handler, ABC Form 9 shall show the (1) new inspection certificate number, (2) total weight shown on the certificate, and (3) weight of inedible kernels shown on the certificate. ABC Form 9 shall be signed by both, the transferring handler and the receiving handler, and submitted by the receiving handler to the Board for approval.

4. Section 981.472 is revised to read as follows:

§ 981.472 Report of almonds received.

(a) Each handler shall report to the Board on ABC Form 1 the total adjusted kernel weight of almonds, by varieties, received by it for its own account within any of the hereinafter prescribed reporting periods. Each such report shall be filed with the Board within five (5) business days after the close of the applicable one of the following reporting periods: July 1 to August 31; September 1 to September 15; September 16 to September 30; October 1 to October 15; October 16 to October 31; November 1 to November 15; November 16 to November 30; December 1 to December 31; January 1 to March 31; April 1 to June 30.

(b) For the reporting periods July 1 through December 31, and January 1 through March 31, each handler shall submit a summary report to the Board, within 30 days after the end of the reporting period, which shall show the adjusted kernel weight of almonds received for the handler's own account by county of production and such varieties as may be requested by the Board.

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

Note.—This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: May 18, 1979; to become effective July 1, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division.

FR Doc. 79-16240 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Domestic Licensing; Timely Notification of Discontinued Licensed Activities

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Approval of reporting requirement by Comptroller General.

SUMMARY: On March 22, 1979, the Nuclear Regulatory Commission published in the Federal Register a notice of rule making, effective June 5, 1979 amending its regulations to require licensees to notify the Commission when they decide to permanently discontinue all activities involving materials authorized under a license.

The notice included the following note:

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45 day period which that statute allows for this review (44 U.S.C. 3512(c)(2)).

EFFECTIVE DATE: June 5, 1979. The reporting requirements set out in the notice of rule making amending 10 CFR Parts 30, 40, and 70 which was published in the Federal Register on March 22, 1979 (44 FR 17479) have been approved or cleared by the U.S. General Accounting Office.

FOR FURTHER INFORMATION CONTACT: Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7086.

Dated at Bethesda, Md. this 18th day of May 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-16315 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Request and Submittals; Notice of Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: This document makes a technical correction to a final rule relating to delegation of authority to act on certain applications for the acquisition and holding of stock in foreign banks. (44 FR 25193, April 30, 1979).

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Legal Division, (202) 389-4237.

SUPPLEMENTARY INFORMATION:

In FR Doc. 79-13336 appearing at page 25193 in the Federal Register of Monday, April 30, 1979, the following change should be made:

1. On page 25194, the paragraph concerning § 303.11 is corrected by substituting the number "(13)" for the

number "(11)" in the second line of the introductory sentence and the fourth line of the published text of the regulation.

Dated: May 21, 1979.

Federal Deposit Insurance Corporation.

Hoyle Robinson,

Executive Secretary.

[FR Doc. 79-16336 Filed 5-23-79; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 18068, Amdt. 39-3476]

Airworthiness Directives; Short Bros., Ltd., Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that would require replacement of life-limited bolts attaching the engine support tube brackets to the engine ring on Short Brothers Limited Model SD3-30 airplanes. The manufacturer's fatigue testing program has established that failure of the bolts could occur if they are left in service beyond 6000 landings. Failure of the bolts could result in separation of the engine.

DATES: Effective June 25, 1979. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Manager—Spares and Support, Product Support Department, Short Brothers Limited, P.O. Box 241—Airport Road, Northern Ireland.

A copy of service bulletin is contained in the Rules Docket in Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513,38.30, or C. Christie, Chief, Technical Standards Branch, AFS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of life-limited bolts attaching the engine support tube brackets to the engine ring on Short Brothers Limited Model SD3-30 airplanes was published in the Federal Register at 43 FR 27558.

The proposal was prompted by an FAA determination that failure of the engine support tube bracket attachment bolts could occur on early production Short Brothers Limited Model SD3-30 airplanes if they are left in service beyond 6000 landings. The life limit has been established by the manfacturer as a part of its continuing fatigue testing program. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of the original bolts with an improved standard bolt prior to accumulating 6000 landings.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without change.

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:

Short Bros., Ltd. Applies to Model SD3-30 airplanes, S/N's 3003 through 3017, certificated in all categories.

Compliance is required prior to the accumulation of 6000 total landings or prior to the accumulation of 25 landings after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent fatigue failure of the bolts, P/N A111-5-G (10 places) and A111-5-J (2 places), attaching the engine support tube brackets to the engine ring, replace the bolts and associated hardware with new bolts, P/N MS. 21250-05008 (10 places) and MS. 21250-06008 (2 places), and associated hardware in accordance with Section 2, "ACCOMPLISHMENT INSTRUCTIONS," of Short Brothers Limited Service Bulletin No. SD3-71-04, dated February 14, 1978, or an FAA-approved equivalent.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by writing to C. Christie, Chief, Technical Standards Branch, AFS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

Issued in Washington, D.C., on May 15, 1979.

James M. Vines,

Acting Director, Flight Standards Service.

[FR Doc. 79-15924 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 78-EA-96]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Airway Segment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates an east alternate airway to V-433 from New Castle, Del., to Yardley, Pa., via the MUFLA INT northeast of the Philadelphia International Airport. This airway bypasses airspace used for certain terminal procedures at Philadelphia, thereby reducing congestion caused by en route flights to the Newark terminal.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On March 19, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate an east alternate airway to V-433 between New Castle and Yardley (44 FR 16438). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 307).

The Rule

This amendment to Part 71 of the

Federal Aviation Regulations designates an east alternate to V–433 from New Castle to Yardley via the INT of the New Castle 058°T (067°M) and the Yardley 196°T (206°M) radials. By designating this route as an airway, coordination and communication time required for its use is reduced. Use of the proposed airway segment helps to reduce the congestion of traffic in the Philadelphia and Newark terminal areas.

Discussion of Comments

One commenter expressed concern that use of the alternate airway may become standardized in lieu of the direct airway. This is not expected to happen because V–433E will be used in tower en route service at and below 9,000 feet MSL. Air traffic en route to Newark will normally be routed via V–433 at and above 10,000 feet MSL.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 GMT, August 9, 1979, as follows:

§ 71.123 [Amended]

Under V–433 "Yardley, Pa.;" is deleted and "Yardley, Pa., including an E alternate via INT New Castle 058° and Yardley 196° radials;" is substituted therefor.

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

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

Issued in Washington, D.C. on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16133 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-WE-3]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone, San Luis Obispo, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule establishes a control zone for the San Luis Obispo County Airport, San Luis Obispo, California. This action will provide controlled airspace for aircraft making instrument approaches to the San Luis Obispo County Airport.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. Telephone (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a control zone for the San Luis Obispo County Airport, San Luis Obispo, California. This action will provide controlled airspace for aircraft making instrument approaches to the San Obispo County Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.171 was republished in the Federal Register on January 2, 1979, (44 FR 353).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT June 14, 1979, as follows:

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71, Federal Aviation Regulations to read:

San Luis Obispo, Calif.

"Within a five mile radius of the San Luis Obispo County Airport (latitude 35°14'11" N., longitude 120°38'26" W.) and with 2 miles each side of the San Luis Obispo County localizer course extending from the 5-mile radius zone to the outer marker. This control zone is effective from 0500 to 2330 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory."

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

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

Issued in Los Angeles, California, on May 10, 1979.

Leon C. Daugherty,

Director, Western Region.

[FR Doc. 79-15923 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-23-M

14 CFR Part 71

[Airspace Docket No. 79-GL-6]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Rhinelander, Wisconsin to accommodate a new Very High Frequency Omnidirectional Range (VOR) Runway 9 instrument approach procedure into Rhinelander Oneida County Airport. In addition, amendments to existing procedures [VOR Runway 15, VOR Runway 5 and Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Runway 23] are being accomplished.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure

segregation of the aircraft using these approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200' above ground to 700' above ground for a distance of approximately two miles beyond the present 700' transition area. The control zone description will be expanded on the west to accommodate a new East/West Runway recently completed. The development of the proposed instrument approach procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700' controlled airspace at times when the control zone is not effective. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable the aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 12688 of the Federal Register dated March 8, 1979, the Federal Aviation Administration Published a Notice of Proposed Rule Making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Rhinelander, Wisconsin. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective August 9, 1979, as follows:

In § 71.181 (44 FR 442), the following transition area is amended to read:

Rhinelander, Wisc.

That airspace extending upward from 700 feet above the surface within a 9½ statute mile radius of the Rhinelander-Oneida County Airport.

In § 71.171 (44 FR 353), the following control zone is amended to read:

Rhinelander, Wisc.

Within a 5 statute mile radius of the Rhinelander-Oneida County Airport (latitude 45°37'54" N, longitude 89°27'35" W estimated) and within 2½ statute miles each side of the Rhinelander VORTAC 322° radial (T) extending from the 5 statute mile radius zone to 6 statute miles northwest of the VORTAC; and within 2 statute miles each side of the Rhinelander VORTAC 058° radial (T) extending from the 5 mile radius zone to 7 statute miles northeast of the VORTAC; and within 2½ statute miles each side of the Rhinelander VORTAC 229° radial (T) extending from the 5 statute mile radius zone to 7 statute miles southwest of the VORTAC; and three statute miles each side of the Rhinelander VORTAC 262° radial (T) extending from the 7 statute mile extension on the south and from the 6 statute mile extension on the north to 8½ statute miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual or equivalent.

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-6, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 14, 1979.

Wayne J. Barlow,

Acting Director, Great Lakes Region.

[FR Doc. 79-16252 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-WE-6]

Special Use Airspace, Controlling Agency Name Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the name of the Controlling Agency for Restricted Area R-2503, Camp Pendleton, Calif., Federal Aviation Administration, El Toro Approach Control fo Federal Aviation Administration, Los Angeles Air Route Traffic Control Center. This action is necessary to reflect the correct Controlling Agency for this restricted area.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regualtions (14 CFR Part 73) is to amend the name of the Controlling Agency of Restricted Area R-2503, Camp Pendleton, Calif. This action is taken to reflect the correct Controlling Agency for the restricted area. Subpart B of Part 73 of the Federal Aviation Regulations was republished in the Federal Register on January 2, 1979 (44 FR 675). Since this amendment is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 675) is amended, effective upon publication in the Federal Register as follows:

§ 73.25 [Amended].

Under § 73.25, R-2503 Camp Pendleton, Calif. Controlling agency. "Federal Aviation Administration, El Toro Approach Control." is deleted and "Federal Aviation Administration, Los Angeles ARTCC." is substituted therefor.

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

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

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16134 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 252

[Regulation ER-1124, Amdt. 3; Docket No. 33314]

Provision of Designated "No-Smoking" Areas Aboard Aircraft Operated by Certificated Air Carriers; Application of No-Smoking Areas to Commuter Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons stated in ER-1123, issued simultaneously, this rule extends the application of the CAB's regulation about smoking on aircraft to commuter air carriers operating aircraft with a passenger capacity of more than 30 seats.

DATES: Effective: June 22, 1979. Adopted: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

The Board amends Part 252 of its Economic Regulations (14 CFR Part 252 to read as follows:

1. The title of this part is changed to read:

PART 252—PROVISION OF DESIGNATED "NO-SMOKING" AREAS ABOARD AIR CARRIERS

2. § 252.1 is amended to read:

§ 252.1 Applicability.

This part establishes rules for the smoking of tobacco aboard aircraft. It applies to each direct air carrier that holds a certificate of public convenience and necessity authorizing the transportation of persons, issued under Section 401 of the Act and to commuter air carriers registered under Part 298 of this chapter in that part of their operations using aircraft designated to have a passenger capacity of more than 30 seats (hereinafter called "carriers"). Nothing in this regulation shall be deemed to require such carrier to permit the smoking of tobacco aboard aircraft.

(Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; 49 U.S.C. 1324, 1374 and 1377.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16201 Filed 5-23-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 298

[EDR-380; Docket 33314; Dated May 17, 1979]

Classification and Exemption of Air Taxi Operators; Increase in Passenger Aircraft Size for Air Taxis

AGENCY: Civil Aeronautics Board.

ACTION: Notice Requesting Comment.

SUMMARY: The CAB has adopted a final rule (ER-1123), published today, increasing the capacity of aircraft permitted for use by air taxi operators to 60 seats. The CAB is inviting comments on the final rule, which is effective immediately, with a view to issuing a revised rule later if necessary.

DATES: Comments by: July 23, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Comments should be sent to Docket 33314. Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

(Secs. 204 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 92 Stat. 1732; 49 U.S.C. 1324, 1386).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16200 Filed 5-23-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 298

[Regulation ER-1123, Amdt. 10; Docket 33314]

Classification and Exemption of Air Taxi Operators Increase in Passenger Aircraft Size for Air Taxis

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule increases the size of aircraft permitted for use by air taxi operators from 30 to 60 seats, to stimulate competition and to enable these small air carriers to serve better many small- and medium-sized communities. The Airline Deregulation Act of 1978 increases the size to 55 seats. The additional increase to 60 seats is being adopted at the CAB's own initiative. In a separate notice, issued simultaneously, the CAB is requesting comments on the increase from 55 to 60 seats, in view of the Airline Deregulation Act.

DATES: Effective: May 17, 1979. Adopted: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20520; (202) 673-5442.

SUPPLEMENTARY INFORMATION: Air taxi operators are now allowed by Board regulations to use aircraft in passenger service with a seating capacity of not more than 30 seats, and in all-cargo service with a maximum payload capacity of not more than 18,000 pounds. This type of air carrier is exempt from most provisions of the Act as long as it registers with the Board and presents evidence of having certain required insurance coverage.

By a notice of proposed rulemaking (EDR-361, 43 FR 39587, September 6, 1978), the Board proposed to increase the limit on seating capacity to 60 seats. The Board also asked for comment as to the extent, if any, to which consumer protections now afforded passengers of certificated carriers, such as smoking and overbooking regulations and restrictions on baggage liability limits, should be applied to air taxis, since they would now be using much larger aircraft. In response to this notice, the Board has received a wide variety of comments from air taxis, certificated carriers, Federal and State government agencies, and other interested persons.[1]

[1] Comments and reply comments have been received from: Action on Smoking and Health, Aviation Consumer Action Project, Air BVI Limited, Airline Passengers Association, Bexley Travel Services, Britt Airlines, Bridgeport Area Chamber of Commerce, Cosmopolitan Aviation Corporation, Commuter Airline Association of America, Executive Air Fleet Corporation, Martin Air Transport, North Central Airlines and Piedmont Airlines (jointly), Pacific Island Airways, Pennsylvania Commuter Airlines, Polynesian Airlines, State of Nebraska Department of Aeronautics, State of New Mexico Department of Transportation, State of New York Department of Transportation, U.S. Department of Defense, U.S. Office of Consumer Affairs (HEW), and Wright Airlines. Peter N. Georgiades also sent 448 comments from individual members of the public on the general issue of smoking on aircraft.

Since issuance of that notice by the Board, Congress passed the Airline Deregulation Act of 1978, which among other things amends section 416 of the Act to provide a statutory exemption from certification for air carriers operating aircraft of capacity less than 56 seats or 18,000 pounds payload. The amendment also permits the Board to exempt these carriers from other provisions of the Act, and to increase the size limits if the public interest so requires. The statutory exemption and the Board's discretionary authority are conditioned on the carrier conforming to such liability insurance requirements and other regulations as the Board may adopt in the public interest.

The Board previously raised the limit for air taxi aircraft used in all-cargo service to 18,000 pounds (ER-1052, 43 FR 25087, June 9, 1978), although the limits for aircraft in passenger service remained at 30 seats and 7,500 pounds. Since there is no longer a need for this bifurcation, by this amendment we are returning to one standard for aircraft used by air taxis no matter what the type of service. The Board is adopting a final rule that raises the seat limit to 60 seats, as proposed in EDR-361, but with a request for comments on the change in light of the Airline Deregulation Act. Further, in consideration of the comments received, the Board will continue to exempt all air taxis from consumer protection rules concerning denied boarding and baggage liability. It will, however, extend the smoking rules to aircraft in the 31- to 60-seat bracket.

Corresponding changes are being made to Part 252 in ER-1124, and are being issued simultaneously.

Increase in Aircraft Size

The Board is including the statutory exemption from the certification requirement for these small aircraft operators in its regulations for air taxis (14 CFR Part 298). The statutory exemption only relieves air carriers operating 55-seat or 18,000-pound aircraft from meeting the requirements of section 401 of the Act. The present regulation exempts operators of aircraft of this size from certain other sections of the Act as well, such as tariff filing, as long as they register as an air taxi. That is the intent of Congress (H.R. Rept. No. 1211, 95th Cong., 2d Sess., 10 (1978)), and enables these carriers to operate in an unregulated environment subject only to registration, insurance, and reporting requirements. Wright Airlines, a certificated carrier that operates similar-sized aircraft, has asked for the same authority as that given to air taxis, to operate without any restriction on fares or routes. It claims that otherwise there will be unfair competition. Without judging the merits of that request, we find that it raises issues outside the scope of this rulemaking proceeding. We have already granted an interim exemption to Wright, and other similarly-situated carriers, to operate on that basis. (Orders 78-8-63, 79-1-136, 79-3-65.) The matter will be dealt with in a separate proceeding, which we will institute in the near future.

The reasons given by Congress, and those stated in EDR-351, for increasing the size limit to 55 seats apply equally to the additional increase to 60. Air taxis have been playing an increasingly important role in the air transport system, developing new markets, exploiting and expanding existing markets, and filling air service gaps in the certificated carrier system as they appear. The aircraft permitted by this rule may be the most efficient aircraft for such service, and air taxis should be given the option to use these larger aircraft if the service situation can support their use.

The Board also affirms its tentative reasoning in EDR-361 in support of the increase. The foremost consideration in this rulemaking is that the quality of service available to the small- and medium-sized communities primarily served by the air taxis, and the ability of air taxis to fulfill their position as a supplement to the larger scheduled route system, be continued and improved. This rule is intended to further those ends by (a) making available larger aircraft to accommodate demand more effectively, (b) encouraging technological development in the form of new aircraft specifically designed for commuter service, (c) making available more of the passenger amenities commonly expected by air travelers, (d) providing greater speed and range in air taxi service, and (e) improving competition and service by making more aircraft available.

Two State government agencies and two commuter operators opposed the increase, arguing that it could lead to a recurrence of the reduced service to small communities that occurred when the local service carriers upgraded their aircraft, that the older aircraft of this size would have greater maintenance problems, and that there is no indication that any manufacturer would develop such aircraft. The Airline Deregulation Act has, however, substantially reduced the force of these arguments. A program of essential air service has been established to protect many of these communities. The new Act is designed to stimulate competitive market forces as the primary manner by which all air carriers, including air taxis, will decide which aircraft to use and how best to use them. Because air taxis operate in an unregulated environment and without subsidy support (except as they may provide essential air service), it is to be expected that they will exercise reasonable business judgment and select aircraft that are economically suited to the markets being served. To the extent that an air taxi decides to serve larger markets and acquires larger aircraft for this purpose, smaller markets may be abandoned. However, if this occurs it is clear from the history of the industry that new air taxis will enter the market as long as the opportunity for profitable operations exists, with appropriate small aircraft. Also, the increased competition and freer entry encouraged by the Act should result in more carriers willing to provide service to more places. There may well be a sufficiently large increase in demand to justify the introduction of new aircraft types in the 50-60 seat range. New operators may wish to start in smaller communities, thereby developing a market for aircraft of this size and the incentive for manufacturers to develop them.

An immediate result of increasing the statutory exemption from 55 seats to 60 seats is to include the Nihon YS-11 aircraft. For the reasons stated above, this plane should not be excluded from use by air taxi operators. There is a natural gap between its size and that of the jet aircraft operated by most certificated carriers. The 60-seat maximum gives the air tax operator sufficient flexibility to design its services to best meet the demands of each market, and gives the manufacturer the flexibility and incentive to develop newer aircraft to meet this need. The Board thus finds that the public interest calls for the increase in the size of permitted air taxi aircraft to 60 seats. By a notice in this issue of the Federal Register, however, the Board is asking for public comment on the increase, and will consider possible changes in the interim rule in light of any comments received.

The Board is changing the definition of "large aircraft" in Part 298 to make clear that the maximum seat limit and maximum payload capacity apply to the number of seats and amount of payload for which the aircraft is designed. This change eliminates the need for setting a maximum zero fuel weight in addition to the other limits, and will protect the limits from abuse.

Executive Air Fleet requested that the rule establish no maximum zero fuel

weight, but that an air taxi be permitted to operate any type or size of aircraft as long as its configuration meets the capacity limits of the rule. It envisions regulations that would generally allow the labeling of a large aircraft as an air taxi where it is equipped with a small number of seats. This type of definition, however, would undermine the intergrity of the definition and the statutory exemption. Such an operation as proposed by Executive Air Fleet is better handled by exemption, on the basis of the facts of each case, than by general rulemaking.

The Airline Deregulation Act (§ 416(b), 49 U.S.C. 1386 (b)) also places several limitations on the operation of air taxis within Alaska. It makes the statutory exemption from certification for these small aircraft operators contingent upon their obtaining authority to provide such air transportation from the State of Alaska. Further, the Board is prohibited from limiting the number or location of points to be served by carriers exempt from certifications, or from limiting the frequency of service to such points by these carriers, unless it finds that the operation of a carrier would substantially impair the ability of a certificated carrier to provide a certain minimum service. The Board is therefore changing § 298.34 to conform to these limitations by deleting paragraph (b) and revising paragraph (a).

Consumer Protection

Air taxis with a seating capacity of up to 30 passengers have always been exempt from application of several of the Board's consumer protection regulations: baggage liability rules (Order 77-2-9, dated February 2, 1977, and Order 77-4-94, dated April 20, 1977), smoking and non-smoking areas (14 CFR Part 252), and overbooking (14 CFR Part 250). The Board, in EDR-361, requested comments on the issue of the extent, if any, to which consumer protection now afforded passengers of certificated carriers in the three areas should be extended to passengers of commuter air carriers.

As explained in implementing each of those rules, these protections have not been applied to air taxi because it has appeared that they would have created an unreasonable burden on operators of small aircraft. In addition, the nature of their operations has been thought to make these restrictions less necessary. Baggage liability has been less of a problem because their passengers rarely has more than carry-on luggage; the size of the aircraft rendered the allocation of a separate smoking section impractical; and the shuttle-type nature of their service tended to minimize problems with overbooking.

The Board's baggage liability rules now apply only to certificated carriers in chartered and scheduled service. The rules permit a limited liability for baggage of approximately $9.07 per pound for checked baggage, and $400 per passenger for unchecked baggage, for most international travel. The rules also restrict the limits on baggage liability to $750 per passenger for travel wholly within the United States.

Effective September 13, 1978 (ER—1050, 43 FR 24277, June 5, 1978), new Board rules were adopted to regulate the involuntary bumping of airline passengers holding confirmed reservations (Part 250). These rules require the airlines to ask for volunteers before bumping anyone from an oversold flight, establish substantially greater compensation for those bumped (based on the value of the remaining flight coupons), encourage carriers to experiment with other reservation and boarding practices to reduce involuntary bumping, and expand the public disclosure of boarding priorities and passenger rights. Commuter air carriers argued that these rules should not apply to commuter service, because under part 250 the commuter airline may be liable to the passenger for an amount far greater than the cost of the air taxi flight. This situation would occur if a passenger were bumped from a typically short and inexpensive air taxi flight that connected to a much longer, more expensive flight, with the commuter then liable to the passenger for the value of the remaining flight coupons. To impose this regulation on a commuter air carrier would be to impose an under hardship, They claimed.

With the passage of the Deregulation Act and the authorization for air taxis to use larger planes in the 31- to 60-seat capacity range, air taxis are assuming a more central place in the air transportation picture. Certificated airlines have been given greater route flexibility, and to the extent that these carriers cut back on small community service, the air taxis are moving to fill the gap. In order to foster this change, the Act makes Federal subsidies available to the air taxis, along with increasing the size of the aircraft that they can use. The issue is thus whether these recent changes now justify extension of the consumer protection rules to the larger air taxi aircraft.

After considering the comments, and other available information, the Board has decided not to extend the denied boarding and baggage liability rules to air taxis at this time. It is true that consumers may expect these protections to a greater extent on the larger planes operated by air taxis. The Board is not certain, however, that these rules, in their present form, are appropriate for application to small carriers with planes smaller than those generally used by the trunk carriers. The impact of these two rules is essentially economic, and we wish to assess their potential effect on smaller enterprises before deciding in what form, if any, they should be imposed. We are also concerned about the effect of these rules on smaller-plane operations even where conducted by a large certificated carrier. For example, the statistical premises of overbooking may be significantly different in the case of a 45-seat plane from that of a 200-seat plane. We will therefore investigate the questions of the costs and benefits of the rules, their best form, and possible alternatives, as applies to operations with aircraft ranging from the smallest up to those with 60-seat capacity, by air taxis and all other carriers. Pending the outcome of the investigation, air taxis will remain exempt from the denied boarding and baggage liability rules, and certificated carriers will remain subject to them in all their operations.

Since consumers should be aware of the risks they assume in buying an airline ticket, particularly where that ticket has unusual conditions, all air taxis will be required to disclose to passengers, at the time of purchase, their policies on baggage liability and denied board compensation. In addition, because the focus of the rule is on the adaptability of carriers to these consumer problems, its success depends in part on the ability of consumers to evaluate the offerings of competing carriers.

The issue of smoking on large and small aircraft is the subject of another rulemaking (Docket 29044), in which the issues and arguments have been discussed at length. On January 11, 1979 (ER-1091, 44 FR 5071, January 25, 1979) The Board approved a final rule amending Part 252 to require certificated air carriers to provide for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing non-smokers to cigar and pipe smoke. It provides for a total prohibition of smoking when ventilation systems are not fully functioning, and requires carriers to seat in no-smoking areas all passengers who wish to be there, to ensure that smoking is not permitted in no-smoking areas, and to enforce their rules with respect to the segregation of passengers in smoking and no-smoking

areas. Commenters in both that docket and this one have suggested that smoking be banned altogether, particularly on small aircraft. In the alternative, they argued that smoking regulations should be applied to commuters if air taxi aircraft size is increased. As stated in ER-1091, the Board is preparing a notice of proposed rulemaking to consider such issues as a total ban on smoking on small aircraft, or on short flights.

The Board has, however, decided to extend the present rules on smoking to operations with aircraft flights of more than 30 seats. Certificated carriers operating aircraft of this size have long been subject to smoking regulations. The greater space in the cabin increases the distance between smokers and non-smokers. Separate sections take on greater importance as the larger aircraft travel greater distances, with a longer period of time in the air and more possible discomfort to the non-smoker. Most importantly, the economic impact of the smoking rule is minor, and we have no reason to believe that it will present special problems for small carriers. The Board is therefore changing Part 252 at this time so that the regulations for the separation of smokers and non-smokers apply to commuter operations with aircraft of more than 30 seats. This action, of course, does not prevent the airlines from banning smoking altogether, as several have already done. Nor does it affect operations with aircraft of 30 seats or less.

Environmental and Energy Considerations

The Board affirms its tentiative decision in EDR-361 that the changes being made in the final rule will not constitute a major federal action that will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et. seq.*, nor a major regulatory action within the meaning of the Energy Policy and Conservation Act, 42 U.S.C. 6201 *et. seq.* To the extent that this rule raises the seat limit to 55, Congress has already made the change, and the Board has no power to introduce the consideration of environmental and energy consequences into the increase in aircraft size. To the extent that the rule raises the seat limit an additional five seats, as we explained in EDR-351 in evaluating energy and environmental consequences of the proposed rule, the small portion of the air carrier industry represented by the air taxis, their type of service, and areas of operation will minimize any environmental or energy impact. It is the Board's opinion, therefore, that neither environmental nor energy assessment statements are required for this rule.

Effectiveness

Since the seating capacity aspect of this amendment is being made to bring the CAB's rules into conformity with the Airline Deregulation Act of 1978, which was signed into law on October 24, 1978, and relieves a restriction on the air taxis, the Board finds good cause to make the size increase effective immediately. This will enable air taxis immediately to use existing aircraft to meet the increased service demand resulting from the Deregulation Act, and make it easier to replace certificated carriers that have already terminated service, with sufficient capacity to meet community demand. Also, air taxis now operating aircraft of this size under exemptions that are expiring, and those who wish to operate such aircraft, should not be required to go through the costly and burdensome exemption procedure when the statutory intent has been made clear.

The extension of the smoking rule to operations with aircraft with more than 30 seats will be effective 30 days after publication.

The Board amends Part 298 of its Economic Regulations (14 CFR Part 298) as follows:

1. The Table of Contents is amended by adding a new § 298.30 to Subpart D to read:

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

* * * * *

Subpart D—Limitations and Conditions on Exemption and Operations

* * * * *

Sec.
298.30 Public disclosure of policy on consumer protection

* * * * *

2. A new § 298.30 is added, to read:

§ 298.30 Public disclosure of policy on consumer protection.

Every air taxi shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by it, to sell tickets to passengers, a sign located so as to be clearly visible and readable to the traveling public, containing a statement setting forth the air taxi's policy on baggage liability and denied boarding compensation.

3. Paragraph (i) of § 298.2 is amended to read:

§ 298.2 Definitions.

* * * * *

(i) "Large aircraft" means any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

* * * * *

§ 298.2(l) [Amended]

4. The second proviso of paragraph (l), "Maximum payload capacity," of § 298.2, is deleted.

5. § 298.31 is amended to read:

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators that register and re-register with the Board extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

6. § 298.34 is amended to read:

§ 298.34 Limitations on air taxi service in Alaska.

An air taxi operator shall not provide or offer to provide air transportation between points both of which are in the State of Alaska, or one of which is in Alaska and the other in Canada, unless the air taxi operator also holds authority from the State of Alaska.

(Sections 204 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732; 49 U.S.C. 1324, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16199 Filed 5-23-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2961]

Intermatic, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Spring Grove, Ill., manufacturer and distributor of electrical devices to cease misrepresenting energy or cost savings that may be realized through the use of its water heater timer without disclosing that use of the timer would decrease the quantity and temperature of hot water used, and adversely affect dishwasher operations. The firm is required to make relevant disclosure statements in product advertising, labeling and instructions; and recall all previously disseminated material which fails to conform with the terms of the order. Additionally, the firm is required to continue its existing refund policy; and maintain specified records for designated time periods.

DATES: Complaint and order issued April 25, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (202) 442-4655.

SUPPLEMENTARY INFORMATION: On Tuesday, February 13, 1979, there was published in the Federal Register, 44 FR 9398, a proposed consent agreement with analysis In the Matter of Intermatic, Incorporated, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.142 Operation; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170-34 Economizing or saving; 13.170-43 Heating; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-45 Maintain records; 13.533-53 Recall of merchandise, advertising material, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 1710 Qualities or properties: § 13.1730 Results; § 13.1740 Scientific or other relevant facts.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

Carol M. Thomas,

Secretary.

[FR Doc. 79-16272 Filed 5-23-79; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and Decision and Order filed with the original document.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. R-79-557]

List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final Rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: June 22, 1979.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Telephone: (202) 755-7603.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Linane, Office of General Counsel, on (202) 755-7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name and Region

M. V. Appenzeller, Atlanta, Georgia.
B. B. Fincher, Dallas, Texas.
Linda Heintz, Philadelphia, Pennsylvania.

2. Paragraph (c) of § 300.11 is amended by adding the following names to the current list of attorneys-in-fact:

* * * * *

(c) * * *

Name and Region

Pan Andrus, Los Angeles, California.
Kenneth D. Baker, Los Angeles, California.
Evelyn C. Ball, Atlanta, Georgia.
Robert W. Endy, Los Angeles California.
Mark S. Haney, Los Angeles, California.
Joy A. Kinsey, Atlanta, Georgia.
Barbara Luetzow, Philadelphia, Pennsylvania.
James W. Noack, Los Angeles, California.
M. Kay Pollak, Los Angeles, California.
Maureen A. Shaughnessy, Philadelphia, Pennsylvania.
Geri C. Thomas, Los Angeles, California.

(Sec. 309 (d), National Housing Act, 12 U.S.C. 1723a(d), and sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., May 16, 1979.

R. Frederick Taylor,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 79-16235 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

[Docket No. FI 4834]

Final Flood Elevation Determination for the Town of Bridgewater, Litchfield County, Conn., under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Bridgewater, Litchfield County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Bridgewater, Litchfield County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Bridgewater are available for review at the Town Hall, Bridgewater, Connecticut.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Bridgewater, Litchfield County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wewaka Brook	Confluence with Lake Lillinonah.	195
	1,000 feet upstream of confluence with Lake Lillinonah.	195
	1,770 feet upstream of confluence with Lake Lillinonah.	203
	50 feet downstream of Wooden Bridge.	299
	65 feet downstream of Dam upstream of Wooden Bridge.	316
	Upstream side of Dam Wooden Bridge.	337
	At confluence with Wewaka Brook Tributary.	342
	Upstream side of Wewaka Brook Road.	358
	Upstream side of first driveway above Wewaka Brook Road.	364
	60 feet downstream of second driveway above Wewaka Brook Road.	368
	Downstream side of second pass under Wewaka Brook Road.	376
	870 feet upstream of second pass under Wewaka Brook Road.	406
	800 feet downstream of third pass under Wewaka Brook Road.	450
	Downstream side of third pass under Wewaka Brook Road.	472
	Downstream side of first driveway above third pass under Wewaka Brook Road.	484
	Downstream side of fourth pass under Wewaka Brook Road.	510
	Downstream side of Treat Road.	529
	95 feet upstream of Treat Road.	533
	920 feet upstream of Treat Road.	544
Wewaka Brook Tributary.	At confluence with Wewaka Brook.	342
	20 feet upstream of Wewaka Brook Road.	342
	25 feet downstream of Route 133.	365
	1,700 feet upstream of Route 133.	410
	1,700 feet downstream of second pass under Route 133.	465
	Upstream of second pass under Route 133.	510
	70 feet downstream of Stuart Road.	559
	60 feet upstream of Stuart Road.	567
	20 feet upstream of first driveway above Stuart Road.	579
	200 feet upstream of first driveway above Stuart Road.	593
	620 feet upstream of Stuart Road.	597
	1,920 feet upstream of Stuart Road.	630
	1,745 feet downstream of Sara Sanford Road.	652
	85 feet downstream of Sara Sanford Road.	679
	65 feet upstream of Sara Sanford Road.	687
	370 feet upstream of Sara Sanford Road.	688
	400 feet upstream of Sara Sanford Road.	690
	1,300 feet upstream of Sara Sanford Road.	700
Clapboard Oak Brook.	At confluence with Lake Lillinonah.	195
	300 feet upstream of confluence with Lake Lillinonah.	199
	910 feet upstream of confluence with Lake Lillinonah.	215
	Upstream of Hemlock Road No. 1.	359
	Downstream of Hemlock Road No. 2.	461
	Upstream of Hemlock Road No. 2.	467
	Upstream of Curtis Road	519
	1,120 feet upstream of Curtis Road.	565
	2,120 feet upstream of Curtis Road.	596
	3,300 feet upstream of Curtis Road.	613
	4,300 feet upstream of Curtis Road.	653

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15879 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4788]

Final Flood Elevation Determination for the Town of East Haddam, Middlesex County, Conn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of East Haddam, Middlesex County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of East Haddam, Middlesex County, Connecticut.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of East Haddam are available for review at the Town Hall, East Haddam, Connecticut.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of East Haddam, Middlesex County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salmon River	Confluence with Connecticut River.	12
	Confluence of Moodus River.	12
	Just upstream of Leesville Road.	12
	Just downstream of dam located upstream of Leesville Road.	12
	Just upstream of dam located upstream of Leesville Road.	29
	5,000 feet upstream of dam located upstream of Leesville Road.	31
Moodus River	Confluence with Salmon River.	12
	Just downstream of Johnsville Road.	12
	60 feet upstream of Johnsville Road.	18
	Just downstream of Johnson Mill Dam.	19
	Just upstream of Johnson Mill Dam.	33
	Just downstream of first dam located upstream of Leesville Road.	79
	Just upstream of first dam located upstream of Leesville Road.	92
	Just downstream of second dam located upstream of Leesville Road.	97
	Just upstream of second dam located upstream of Leesville Road.	107
	Just downstream of Moodus-Leesville Road.	112
	Just upstream of Moodus-Leesville Road.	115
	Just downstream of first dam located upstream of Moodus-Leesville Road.	119
	Just upstream of first dam located upstream of Moodus-Leesville Road.	126
	Just downstream of second dam located upstream of Moodus-Leesville Road.	144
	Just upstream of second dam located upstream of Moodus-Leesville Road.	152
	Just upstream of abandoned North Moodus Road bridge.	157
	Just downstream of North Moodus Road culvert.	166
	Just upstream of North Moodus Road culvert.	170
	Just downstream of dam located upstream of North Moodus Road.	177
	Just upstream of dam located upstream of North Moodus Road.	188
	Just upstream of Sawmill Road.	194
	Just downstream of dam located upstream of Sawmill Road.	199
	Just upstream of dam located upstream of Sawmill Road.	203
	Just downstream of Falls Road.	244
	Just downstream of dam located upstream of Falls Road.	267
	Just upstream of dam located upstream of Falls Road.	270
	Just downstream of Natural Falls.	277
	Just upstream of Natural Falls.	338
	Just downstream of Falls Bashan Road.	350
	Just upstream of Falls Bashan Road.	354
Connecticut River	Southern corporate limits	11
	Just upstream of State Route 82.	11
	Confluence of Salmon River	12
Succor Brook	Confluence with Connecticut River.	11
	Just upstream of Lumber Yard Road.	11
	Just downstream of Creamery Road.	16
Eightmile River	Southern corporate limits	58
	Just upstream of Farm Bridge.	59
	Just downstream of State Route 82.	66
	Just upstream of Three Bridges Road.	73
	265 feet upstream of confluence with Hedge Brook.	83

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15880 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4838]

Final Flood Elevation Determination for the City of Palmetto, Fulton and Coweta Counties, Ga., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Palmetto, Fulton and Coweta Counties, Georgia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Palmetto, Fulton and Coweta Counties, Georgia.

ADDRESSES: Maps and other information showing the detailed oulines of the flood-prone areas and the final elevations for the City of Palmetto, Fulton and Coweta Counties, Georgia are available for review at the Superintendent of Utilities Office, City Hall, 512 Locke Street, Palmetto, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Palmeto, Fulton and Coweta Counties, Georgia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Bear Creek	Just downstream of Carlton Road.	930
	Just downstream of Toombs Road.	963

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15881 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4844]

Final Flood Elevation Determination for the Village of Frankfort, Will County, Illinois, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Frankfort, Will County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Frankfort, Will County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Frankfort are available for review at the Village Administrator's Office, Frankfort, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Frankfort, Will County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 1 of Hickory Creek.	1,250 feet downstream from Indiana Court at western corporate limit.	630
	Just downstream of Indiana Court.	635
	Just upstream of Indiana Court.	701
	At Birchwood Road	701
	100 feet upstream from Box Elder.	702
	100 feet downstream from Locust Street.	704
	Just downstream from Chelsea School Road.	708
	400 feet downstream from confluence of Tributary A of History Creek.	711
	100 feet upstream from confluence of Tributary A of Hickory Creek.	712
	500 feet downstream from Frankfort Street.	714
	At Frankfort Street	715
	300 feet upstream from Frankfort Street.	716
	1,300 feet upstream from Frankfort Street at eastern corporate limit.	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15882 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4860]

Final Flood Elevation Determination for the Village of Lyons, Cook County, Illinois, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Lyons, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Lyons, Cook County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Lyons are available for review at the Village Clerks Office, Lyons, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Lyons, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were

received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	At Southern corporate limit	598
	100 feet Downstream of Ogden Avenue.	600
	Downstream of Hoefman Dam.	604
	700 feet Upstream of Hoefman Dam.	610
	3,000 feet Upstream of Hoefman Dam.	612
	1,000 feet Upstream of Salt Creek confluence at north corporate limit.	613
Salt Creek	At confluence with Des Plaines River.	612
	1,200 feet Upstream of confluence with Des Plaines River.	613
	2,030 feet Upstream of confluence with Des Plaines River.	614
	North corporate limits	615

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15883 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4964]

Final Flood Elevation Determination for the Village of Peoria Heights, Peoria County, Illinois, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Peoria Heights, Peoria County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Peoria Heights, Peoria County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Peoria Heights are available for review at the Village Hall, 4901 North Prospect Road, Peoria Heights, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Peoria Heights, Peoria County, Illinois.

This final rule is issued 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 Develpment Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Illinois River	Southern corporate limit	460
	Northern corporate limit	460
East Branch Dry Run Creek.	West corporate limit, about 100 feet north of Glen Avenue.	704

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15884 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4863]

Final Flood Elevation Determination for the Town of Porter, Porter County, Ind., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Porter, Porter County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Porter, Porter County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Porter are available for review at the City Hall, Porter, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Porter, Porter County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of nintey (90) days has been provided. No appeals of the proposed base flood elevations were

received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Calumet River	At downstream corporate limits.	613
	At Howe Road	614
	Just upstream of U.S. Highway 20.	616
	Just upstream of I-94	618
	At Waverly Road	620
	Upstream of Conrail	622
	Upstream corporate limits	622
Peterson Ditch	At confluence with Little Calumet River.	614
	30 feet upstream from Howe Road.	615
	800 feet upstream from Howe Road.	616
	Downstream side of Beam Street.	621
	Upstream side of Beam Street.	627
	185 feet upstream of Conrail.	627
	200 feet downstream from U.S. Highway 20.	632
	Upstream of U.S. Highway 20	636
	Upstream of I-94	637
	Upstream side of Conrail	638
	Upstream side of Elgin Joliet and Eastern Railroad.	638
	At 23rd Street (Corporate limits).	638

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15885 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4903]

Final Flood Elevation Determination for the Town of St. John, Lake County, Ind., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of St. John, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of St. John, Lake County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of St. John are available for review at the Town Hall, Clerk's Office, West 93rd Street, St. John, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of St. John, Lake County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bull Run	At the confluence with West Creek.	675
	Just downstream of Dirt Road.	676
	Just downstream of White Oak Avenue (corporate limits).	679
St. John Ditch	At the confluence with West Creek.	675
	At Farm Lane	678
	Just downstream of U.S. 41	683
	Just upstream of U.S. 41	686
	Just downstream of Conrail	687
	Just upstream of Conrail	691
	Just upstream of Louisville & Nashville Railroad.	694
	3,750 feet upstream of Hart Street (at upstream corporate limits).	694
West Creek	Downstream corporate limit	674
	Confluence with St. John Ditch & Bull Run.	675

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15886 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4946]

Final Flood Elevation Determination for the City of Easton, Leavenworth County, Kans., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Easton, Leavenworth County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Easton, Leavenworth County, Kansas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Easton are available for review at the City Hall, Easton, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Easton, Leavenworth County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dawson Creek	450 feet Downstream of 3rd Street.	903
	Just Upstream of Kicakapoo Street.	904
	900 feet Upstream of Kickapoo Street.	906
Stranger Creek	1,500 feet Downstream of State Highway 192.	903
	650 feet Upstream of State Highway 192.	905

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15587 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4978]

Final Flood Elevation Determination for the Town of Greensboro, Caroline County, Md.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Greensboro, Caroline County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Greensboro, Caroline County, Maryland.

ADDRESSES: Maps and other information showing the detailed oulines of the flood-prone areas and the final elevations for the Town of Greensboro, Caroline County, Maryland, are available for review at the Town Hall, North Main Street, Greensboro, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Greensboro, Caroline County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Choptank River	Downstream Corporate Limits.	12
	State Route 314 Bridge	12
	Upstream Corporate Limits	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15888 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4907]

Final Flood Elevation Determination for the Township of Lake, Berrien County, Mich., Under The National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Lake, Berrien County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Lake, Berrien County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and final elevations for the Township of Lake are available for review at the Township Hall, Lake, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Lake, Berrien County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR

Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Lake Michigan (entire length of shoreline).	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15889 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4809]

Final Flood Elevation Determination for the City of Swartz Creek, Genesee County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Swartz Creek, Genesee County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Swartz Creek, Genesee County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Swartz Creek are available for review at the City Hall, Swartz Creek, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5720, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Swartz Creek, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Swartz Creek.	Eastern corporate limits	759
	Just downstream from Grand Trunk Western Railroad.	759
	Just downstream from Elms Road.	764
	Just upstream from Morrish Road.	769
	Western corporate limits	772
Alger Creek	Just upstream of mouth at West Branch Swartz Creek.	771
	Southern corporate limits	771

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963))

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15890 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4774]

Final Flood Elevation Determination for the Unincorporated Areas of LeFlore County, Miss., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of LeFlore County, Mississippi.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of LeFlore County, Mississippi.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of LeFlore County, Mississippi are available for review at the LeFlore County Courthouse, Greenwood, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of LeFlore County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yazoo River-Tallahatchie River.	Just upstream of U.S. Highway 82 & 49E.	131
	Just upstream of Money St.	136
Yalobusha River	Just upstream of Whaley Road.	134
	Just upstream of Avalon Road.	135
Pelucia Creek	Just upstream of Highway 49E.	127
	Just upstream of Mississippi Highway 430.	138
Muddy-Gin Bayou	Just upstream of bridge	
	Southwest of New Jerusalem Church.	116
	Just downstream of U.S. Highway 82 Bridge.	123
Old Pelucia Creek-Blue Lake.	Just upstream of Mississippi Highway 430.	129
	Just upstream of U.S. Highway 82.	131
Walker Lake Canal	At Walker Lake pumping plant.	123
Craig Canal	Just upstream of U.S. Highway 49E.	126

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15891 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4957]

Final Flood Elevation Determination for the City of Clearwater, Wright County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Clearwater, Wright County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Clearwater, Wright County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Clearwater are available for review at the City Hall, Clearwater, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Clearwater, Wright County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days had been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limits.	947
	Upstream corporate limits	948
Clearwater River	Just upstream of Burlington Northern Railroad.	948
	Just upstream of County Highway 75 dam.	957
	Upstream corporate limits	959

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15892 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4871]

Final Flood Elevation Determination for the City of Kasota, Le Sueur County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Kasota, Le Sueur County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Kasota, Le Sueur County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Kasota are available for review at the City Hall, P.O. Box 218, Kasota, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Kasota, Le Sueur County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Minnesota River	Downstream corporate limits	762
	1,300 feet upstream of northwest corporate limit	763
Shanaska Creek	Just upstream of Pearl Street	827
	750 feet upstream of Pearl Street	832
	1,150 feet upstream of Pearl Street	840
	At State Route 22	845

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15893 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4872]

Final Flood Elevation Determination for the City of Ramsey, Anoka County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Ramsey, Anoka County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Ramsey, Anoka County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Ramsey are available for review at the Ramsey City Hall, 15153 Nowthen Boulevard, Anoka, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Ramsey, Anoka County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 Part CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	At eastern corporate limits	847
	At western corporate limits	856
Rum River	At southern corporate limits	852
	At Roanoak Street	863
	At northern corporate limits	865
Trott Brook	At mouth	862
	3,400 feet upstream of St. Francis Boulevard.	862
	Just downstream of Nowthen Boulevard.	865
	Just upstream of Nowthen Boulevard.	871
	Just downstream of Armstrong Boulevard.	872
	Just upstream of Armstrong Boulevard.	873
	1 mile upstream of Armstrong Boulevard.	874
	Just downstream of trail near western corporate limit.	877
	3,700 feet downstream of Ermine Boulevard.	833
	Just downstream of Ermine Boulevard (near Eaton Street).	839
	Just upstream of Ermine Boulevard (near Eaton Street).	831
	Just downstream of Ermine Boulevard (near 180th Avenue).	831
	At western corporate limits	833
East Channel Trott Brook.	At confluence with Trott Brook.	877
	At point of divergence with Trott Brook.	882
Ford Brook	At mouth	863
	Just downstream of Green Valley Road.	863
	Just upstream of Green Valley Road.	876
	Just downstream of St. Francis Boulevard.	877
	Just upstream of St. Francis Boulevard.	879
	4,000 feet upstream of St. Francis Boulevard.	880

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15894 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4873]

Final Flood Elevation Determination for the City of Rockford, Hennepin County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Rockford, Hennepin County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Rockford, Hennepin County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Rockford are available for review at the City Hall, 6031 Main Street, Rockford, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives

notice of the final determinations of flood elevations for the City of Rockford, Hennepin County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet national geodetic vertical datum
Crow River	Northern corporate limits	913
	Just upstream from State Highway 55.	915
	Southwest corporate limits	917

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15895 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4981]

Final Flood Elevation Determination for the City of Belmont, Gaston County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Belmont, Gaston County, North Carolina.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Belmont, Gaston County, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Belmont, Gaston County, North Carolina are available for review at City Hall, 115 North Main Street, Belmont, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Belmont, Gaston County, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Abbey Creek	Just downstream of Neely Chevrolet Drive.	627
	Just downstream of Hawley Avenue.	637
	Just upstream of Hawley Avenue.	647
Stowe Branch	Just upstream of confluence with Catawba River.	573
	Just downstream of Vine Street.	611
	Just upstream of Vine Street.	619
	Just downstream of Hawthorne Street.	641

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15896 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 33 and 40

[CGD 79-029]

Military Personnel; Deletion of Rules

AGENCY: Coast Guard, DOT.

ACTION: Deletion of rules.

SUMMARY: This action deletes from the Code of Federal Regulations provisions governing the appointment of professors and admission of cadets to the Coast Guard Academy, and the granting of Coast Guard commissions to Merchant Marine officers. Retention of these provisions in the Code has been found unwarranted owing to their limited impact on the public. The fact that some of the provisions have been frequently revised, and that others essentially duplicate statutory language, has provided additional justification for this action.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of the Chief Counsel (G–LRA/81), Room 8105, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1534).

SUPPLEMENTARY INFORMATION: As part of its commitment to regulatory reform, the Coast Guard has reviewed its regulations pertaining to military personnel that are found in Subchapter B of Title 33, Code of Federal Regulations. Two parts in this subchapter have been found to contain material that has no appreciable impact on members of the public and is subject to frequent revision. Owing to these factors, the Coast Guard has questioned the wisdom of maintaining them as Code provisions.

The affected regulations are those found in Part 33, governing the

appointment of professors to the Coast Guard Academy and the granting of Coast Guard commissions to Merchant Marine Officers, and those found in Part 40, governing the appointment of Coast Guard cadets. Brochures, phamphlets, and other printed matter containing the substance of these provisions, and incorporating periodic changes in application procedures and eligibility requirements, are broadly distributed to inform potentially interested parties. Code provisions are generally revised on an annual basis, creating a disparity between the information the Coast Guard independently disseminates, and that contained in parallel sections of the Code. In order to eliminate confusion that may stem from this situation, the removal of these provisions from the Code has been found to be warranted.

Additional justification for the deletion of subpart 33.01, pertaining to the appointment of Coast Guard Academy professors, stems from the fact that this language essentially duplicates that which appears in section 188 of Title 14, United States Code. The elimination from the Code of Federal Regulations of material found in statutory sources has long been identified as a desirable goal. A discrepancy between the regulations and statute concerning probation requirements for the appointment of regular professors will be rectified through deletion of the regulation.

This action does not revoke regulations in the Coast Guard personnel manual embodying the same subject matter as the Code provisions which are being deleted.

The regulations being deleted are the following:

PART 33 [Deleted]

1. 33 CFR Part 33—Appointment of Civilians as Commissioned Officers, Chief Warrant Officers, and Warrant Officers.

PART 40 [Deleted]

2. 33 CFR Part 40—Cadets of the Coast Guard.

The Coast Guard proposed certain amendments to 33 CFR Part 40 in CGD 76-087 published in 41 FR 47944 on November 1, 1976. Since Part 40 is being deleted, docket 76-087 is closed without further action on the proposal.

This rulemaking has been reviewed under the Department of Transportation Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). As this action concerns agency personnel, it is excepted for the provisions of 5 U.S.C. 533. Since the material being deleted has limited public impact and those members of the public that are interested are more effectively advised of current requirements by other means, the Coast Guard has determined that public participation is not likely to result in the receipt of useful information and had decided against issuing a notice of proposed rulemaking.

Revisions which are contemplated in the Coast Guard personnel manual conflict with the affected CFR parts, preventing publication of the revisions and their use in the recruitment of needed personnel. So that this situation may be quickly remedied, this action is effective on May 24, 1979.

Accordingly, Subchapter B of Title 33, Code of Federal Regulations is amended by deleting Parts 33 and 40

(14 U.S.C. 92, 182, 633; 49 CFR 1.46(b))

Dated: May 16, 1979.

R. H. Scarborough

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79-16314 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 14-1

Implementation of Program To Increase Contracting Participation of Minority Business Enterprises; Revision of Regulations

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Temporary rule.

SUMMARY: On September 15, 1978, a temporary rule was published in the Federal Register (FR Doc. 78-26024) prescribing the Department of the Interior's policies, procedures, and contract clauses which established the Department's program to increase the contracting and subcontracting participation of minority business enterprises in its procurement activities. All comments received with respect to the prescribed rule were given due consideration. As a result of the comments received and the subsequent impact of Pub. L. 95-507 which was signed into law on October 24, 1978, the following changes are issued as a temporary rule.

EFFECTIVE DATE: The changes set forth herein are effective immediately.

FOR FURTHER INFORMATION CONTACT: Charlotte B. Spann, Chief, Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, Office of the Assistant Secretary—Policy, Budget and Administration, Room 5525, Department of the Interior, 18th & C Streets NW., Washington, D.C. 20240 (202/343-4907).

SUPPLEMENTARY INFORMATION: The primary author of this rule is Kenneth T. Kelly, Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 202-343-4907.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

PART 14-1—GENERAL

Subpart 14-1.13—Minority Business Enterprise

1. Section 14-1.1302-5 (b) is revised by amending paragraph (b)(5)(i), deleting paragraph (b)(5)(xvi) and adding a new paragraph (b)(5)(xvi) as follows:

§ 14-1.1302 Agency programs.

§ 14-1.1302-5 Heads of procuring activities.

* * * * *

(b) * * *

(5) * * *

(i) A review of each procurement requirement in excess of $10,000 to determine the opportunity for award to the Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) (see § 1-1.713 of this title). * * *

* * * * *

(xvi) Ensure that each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures be reserved exclusively for small business concerns unless the Contracting Officer is unable to obtain offers or quotations from two or more small business concerns that are competitive with market prices and in terms of quantity and delivery of the goods and services being purchased.

2. Section 14-1.1302-6 is revised by amending paragraph (b) as follows:

§ 14-1.1302-6 Minority business enterprise coordinators.

* * * * *

(b) Review of each procurement package in excess of $10,000 received in the procurement office to determine the potential for award to the Small Business Administration in accordance

with Section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

* * * * *

§ 14-1.1310-2 Required clauses [Reserved].

3. The policy changes as prescribed by the Office of Federal Procurement Policy and published in the Federal Register on April 20, 1979, (FR Doc. 79-12296) are hereby incorporated into the Department of the Interior procurement policy on subcontracting and are effective immediately. Section 1.1310-2 is therefore revised by deleting paragraphs (a), (b), (c), and (d) and reserved for future policy issuances on required subcontracting clauses.

Dated: May 17, 1979.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 79-16274 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-10-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-1

[FPMR Amendment A-30]

Delegations of Authority

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule changes the way the General Services Administration (GSA) delegates authorities to other agencies. GSA no longer delegates authorities through its temporary regulations system. GSA has determined that issuing delegations of authority in a separate series from temporary regulations will eliminate papework, avoid confusion, and save time and money.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Stanley W. Bowers, Chief, Directives Management Branch (202-566-0666).

SUPPLEMENTARY INFORMATION: On April 25, 1978, GSA published a proposal (43 FR 17508) to discontinue delegating authorities in FPMR temporary regulations. GSA requested interested persons to submit comments on the proposal by June 26, 1978. GSA received one comment, and the commenter agreed with the proposal. Therefore, GSA is adopting the proposal without change.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Section 101-1.103(b) is revised to read as follows:

§ 101-1.103 FPMR temporary regulations.

* * * * *

(b) FPMR temporary regulations may have an effective period of up to 2 years when codification is not anticipated or is not considered practical.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: May 14, 1979.

Paul E. Goulding,

Acting Administrator of General Services.

[FR Doc. 79-16273 Filed 5-23-79; 8:45 am]

BILLING CODE 6820-34-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-274; RM-3037]

Television Broadcast Station in Beattyville, Ky.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein, as a result of a petition filed by Hour of Harvest, Inc., assigns television UHF Channel 65 to Beattyville, Kentucky, as that community's first television assignment. The assigned channel could render a first local television service to Beattyville.

EFFECTIVE DATE: June 28, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: May 15, 1979.

Released: May 22, 1979

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Beattyville, Kentucky), BC Docket No. 78-274, RM-3037.

1. The Commission has before it the *Notice of Proposed Rule Making,* adopted August 24, 1978, 43 FR 39594, in response to an amended petition filed by Hour of Harvest, Inc. ("petitioner"), requesting the assignment of UHF television Channel 65 to Beattyville, Kentucky. Petitioner originally requested that Channel 51 be assigned to that community. However, when a question about assignment of this channel arose,[1] petitioner indicated it was prepared to file an application for Channel 65, if assigned. If the impediment to the Channel 51 assignment is removed, it asks that Channel 51 be assigned to Beattyville,[2] as originally proposed.

2. Beattyville (pop. 923), seat of Lee County (pop. 6,587),[3] is located in east central Kentucky, approximately 85 kilometers (53 miles) southeast of Lexington, Kentucky. Beattyville presently has no local television broadcast service.

3. The *Notice* indicated that the proposed Channel 65 assignment meets the distance separation requirements and other technical criteria and could be made without affecting any existing assignments in the Television Table. In support of its proposal, petitioner has submitted persuasive information with respect to Beattyville and its need for a first television channel assignment.

4. We have given careful consideration to the proposal and believe that it would be in the public interest to assign Channel 65 to Beattyville, Kentucky, to provide a first local television broadcast service to that community.

5. Accordingly, it is ordered, That effective June 28 1979, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended, with regard to the city listed below, as follows:

City	Channel No.
Beattyville, Kentucky	65

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, § 0.281 of the Commission's rules.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

8. It is further ordered, That this proceeding is terminated.

[1] Petitioner, in requesting Channel 51 to Beattyville, failed to consider a pending proposal (Docket 21392) requesting the addition of Channel 36 to Lexington, Kentucky. If Channel 36 were assigned to Lexington, Channel 51 in Beattyville would be short-spaced to the Lexington reference point.

[2] This is not possible, as on April 18, 1979, the Commission adopted a *Report and Order* in Docket No. 21392, assigning Channel 36 to Lexington, Kentucky.

[3] Population figures are taken from the 1970 U.S. Census.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.))

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16263 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 78-306; RM-3114]

Television Broadcast Station in Fort Walton Beach, Fla.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns UHF television Channel 35 to Fort Walton Beach, Florida, in response to a petition filed by Joint Communications Company. The proposed television station could provide for a first local television service to the community.

EFFECTIVE DATE: June 28, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: May 15, 1979.
Released: May 22, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Fort Walton Beach, Florida), BC Docket No. 78-306. RM-3114.

1. The Commission has before it the *Notice of Proposed Rule Making*, 43 FR 45620, in response to a petition filed by Joint Communications Company ("petitioner"). The *Notice* proposed the assignment of UHF television Channel 35 to Fort Walton Beach, Florida. Supporting comments were filed by Florida West Amusements, Inc.,[1] and the Offshore Telephone Company ("Offshore"). Comments were also filed by the Association of Maximum Service Telecasters, Inc. ("MST").

2. Fort Walton Beach (pop. 19,994), in Okaloosa County (pop. 88,187),[2] is located in northwest Florida, on the Gulf of Mexico, approximately 60 kilometers (37 miles) east of Pensacola, Florida. It has no local television broadcast service.

3. Petitioner, in its original filing, stated that Fort Walton Beach is the largest city in Okaloosa County and a rapidly growing community. Petitioner claimed that although Fort Walton Beach receives commercial television service from other stations, none of these stations put a Grade A signal over the community. Petitioner also submitted detailed socio-economic and geographic profiles of Fort Walton Beach in an effort to demonstrate the need for a local television channel assignment.

4. In support, Offshore claims that the rapidly growing community of Fort Walton Beach is so poorly served by adjacent off-the-air television stations that over 70 percent of the television households in Okaloosa County find it necessary to use cable television. It points out that the assignment of a television channel to this community would provide a much needed local service.

5. MST notes that the reference point for Channel 35 at Fort Walton Beach would be short-spaced to the reference point for unoccupied Channel 28, Panama City, Florida. However, it adds, there appears to be areas in the vicinity of Fort Walton Beach where an antenna could be located in full compliance with the mileage separation requirements. MST asserts that it takes no position on the merits of the proposal except to urge that the Commission make clear that the channel must be used at a site which will meet all distance separation requirements.

6. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to assign Channel 35 to Fort Walton Beach, Florida. A demand has been shown for its use and it would provide the community with a first local television service. Any television broadcast station that would operate on Channel 35 at Fort Walton Beach, Florida, would need to comply with the provisions of § 73.610 of the rules.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective June 28, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's rules is amended for the city listed below to read as follows:

City	Channel No.
Fort Walton Beach, Florida	35

8. For further information on this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

9. It is further ordered that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303.))

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16263 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmosphere Administration

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Apportionment of Reserve Amounts, Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (See 43 FR 56238, 50 CFR 627.20(c), and 50 CFR 611.92(b)(1)(ii)). These regulations apply to vessels of foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. vessels delivering to foreign processors at sea would harvest groundfish, the FMP established a reserve of fish which could be released and added to the total allowable level of foreign fishing

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[1] The original petitioner has not filed any supporting comments. However, since comments have been filed by Florida West Amusements, Inc., expressing an interest in the channel, petitioner's failure to file comments is of no significance.

[2] Population figures are taken from the 1970 U.S. Census.

(TALFF) if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the Council adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,800 metric tons and increased reserves of species taken incidental to pollock. The purpose of these reserves was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations published on December 1, 1978 (43 FR 56238), established criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

These regulations provide that up to 25 percent of the initial reserve amounts will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

In January, 25 percent of the reserves of each species except sablefish was released. In March, 25 percent of the reserves of sablefish (except for the southeast area), but no other species, were released. Accordingly, 50 percent of the reserves of all species (except for sablefish) are now eligible for release.

II. Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Twenty-five percent of the reserves of all species except sablefish in each fishing area in the Gulf of Alaska should be released and added to the TALFF.

2. The remaining reserves of all species in the Gulf of Alaska that are eligible for release in May 1979 should be retained as reserves.

In making this determination, the Regional Director considered to what extent U.S. vessels would harvest the remaining reserves. The Regional Director has concluded that U.S. vessels would not take more than half of the reserves of all species, except sablefish, now eligible for transfer to the TALFF. Hence, it is appropriate that 25 percent of the original reserves be transferred to the TALFF.

During the public comment period, no testimony was received that substantiated future expansion of the U.S. fishing fleet or U.S. processing intent beyond that stated in the FMP. Therefore, except for sablefish, current domestic annual harvests (DAH) are sufficient to provide for U.S. catches that appear likely to be delivered to U.S. processors and need not be supplemented by amounts in excess of those retained in the reserves.

The Regional Director has reviewed U.S. harvesting capacity, and U.S. processing capacity and intent and has determined that all sablefish reserves will be utilized by U.S. industry. Accordingly, no sablefish reserves will be released to TALFF.

The reserves remaining after this release are sufficient to provide for U.S. catches expected to be delivered to foreign processing vessels (joint ventures). Two joint venture permits have been issued to foreign processing vessels for joint ventures, and two permit applications were approved on May 10, 1979, however, only one U.S. fishing vessel is delivering fish to a foreign processing vessel, and two other U.S. vessels are expected to commence fishing and delivery operations in the near future.

III. Response to Public Comments.

Only one comment was received during the comment period. It is summarized and responded to below:

Comment: All of the available reserves of sablefish, Pacific cod, and "other species" should be released to TALFFs to support longline fishing operations for sablefish and Pacific cod.

Response: No sablefish reserves will be released to TALFF as they are intended to be utilized by U.S. fishermen and processors. It has been deemed appropriate to release only 25 percent of the total reserves of all other species. The remaining reserves eligible for release will be retained to support joint ventures. As previously discussed, one U.S. vessel is delivering fish to a foreign processor and other U.S. fishermen are expected to participate in joint ventures if present participation proves successful. The reserves remaining after this release will be sufficient for increased U.S. participation in joint ventures.

IV. Other Matters.

An environmental impact statement was prepared for the FMP for the groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned (determination to waive, and appropriate reasons, must be stated for each release). This action is not significant in relation to criteria prescribed by EO 12044, and a regulatory analysis is not required.

Signed at Washington, D.C., this 16th day of May, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. Section 1801 *et seq.*

§ 672.20 [Amended]

(A) 50 CFR 672.20 is amended by revising Table I—Optimum Yield and Reserves of paragraph (a) as follows:

Table I-A.—*(As Amended by May 1979 Reserve Release)*

Optimum Yield and Reserves, Metric Tons

Fishing Areas

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	OY	57,000	54,400	40,800	12,500	4,100	168,800
	Reserve	22,600	21,550	16,200	4,950	1,600	66,900
Pacific Cod	OY	9,600	4,100	15,300	4,500	1,500	34,800
	Reserve	1,364	574	2,210	634	214	4,996
Flounder	OY	10,400	2,700	12,000	6,400	2,000	33,500
	Reserve	1,500	400	1,750	900	300	4,850
Pacific Ocean Perch (POP)	OY	2,700	2,700	5,200	7,900	6,500	25,000
	Reserve	450	450	800	1,250	1,000	3,950
Other Rockfishes	OY	300	200	600	3,400	3,100	7,600
	Reserve	50	50	150	800	700	1,750
Sablefish	OY	2,100	1,400	2,400	3,400	3,700	13,000
	Reserve	525	450	675	900	700	3,250
Atka Mackerel	OY	4,400	3,600	15,800	1,000	0	24,800
	Reserve	500	400	1,750	100	0	2,750
Squid	OY	400	400	400	400	400	2,000
	Reserve	100	100	100	100	100	500
Other Species*	OY	4,400	3,600	5,000	2,100	1,100	16,200
	Reserve	650	500	750	300	150	2,350

*The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

§ 611.20 [Amended]

(B) 50 CFR 611.20 is amended by revising Table I of paragraph (c) as follows:

Table I-B.—*(As Amended by May 1979 Reserve Release)*

(1) Change lines beginning "702," "129," "207," "780," "701," "849," "703," "509," "499" to read as follows:

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska Groundfish	Cod, Pacific	702	[4]14,304
Do	Flounders, including yellowfin sole	129	[4]21,450
Do	Mackerel, Atka	207	[4]22,050
Do	Perch, Pacific Ocean (POP)	780	[4]19,550
Do	Pollock	701	[4]67,700
Do	Rockfishes, other than POP	849	[4]3,850
Do	Sablefish	703	[4]5,750
Do	Squid	509	[4]1,500
Do	Other species	499	[4]13,350

§ 611.92 [Amended]

(C) 50 CFR 611.92 is amended by revising Table I—Gulf of Alaska Groundfish Fishery—For 1978–79 of paragraph (b) as follows:

Table I-C.—*(As Amended by May 1979 Reserve Release)*

Gulf of Alaska Groundfish Fishery: TALFF and Reserve [1] by Species and Fishing Area for 1978–79, Metric Tons

Fishing Areas [2]

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	TALFF	29,600	28,250	21,200	6,450	2,200	87,700
	Reserve	22,600	21,550	16,200	4,950	1,600	66,900
Pacific Cod [3]	TALFF	3,936	1,726	6,290	1,766	586	14,304
	Reserve	1,364	574	2,210	634	214	4,996
Flounders	TALFF	6,700	1,700	7,650	4,100	1,300	21,450
	Reserve	1,500	400	1,750	900	300	4,850
Pacific Ocean Perch (POP)	TALFF	2,150	2,150	4,200	6,250	5,200	19,950
	Reserve	450	450	800	1,250	1,000	3,950
Other Rockfishes [4]	TALFF	150	150	250	1,700	1,600	3,850
	Reserve	50	50	150	800	700	1,750
Sablefish	TALFF	1,475	950	1,625	1,700	0	5,750
	Reserve	525	450	675	900	700	3,250
Atka Mackerel	TALFF	3,900	3,200	14,050	900	0	22,050
	Reserve	500	400	1,750	100	0	2,750
Squid	TALFF	300	300	300	300	300	1,500
	Reserve	100	100	100	100	100	500
Other Species [5]	TALFF	3,650	3,000	4,050	1,700	950	13,350
	Reserve	650	500	750	300	150	2,350

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.

[2] See Figure 3 of Appendix II to Section 611.9 for description of fishing areas.

[3] Of the total Pacific cod TALFF, only 4,691 metric tons may be caught west of 157° W. longitude.

[4] The category "other rockfishes" includes all rockfishes other than Pacific Ocean perch.

[5] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

[FR Doc. 79-15813 Filed 5-17-79; 1:29 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 79-WE-8-AD]

Airworthiness Directives; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposes rule making.

SUMMARY: This notice proposed to adopt an Airworthiness Directive (AD) that would require upper wing/VHF antenna anti-ice system testing and an eventual modification of the system on DC-10 series airplanes. The proposed AD is needed to detect possible passive failures in the right upper wing/VHF antenna anti-ice valve position monitor. The passive failure followed by a valve failure could result in asymmetric ice accretion on RH wing surfaces and/or ice ingestion in the No. 2 engine.

DATES: Comments must be received on or before August 6, 1979.

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

The applicable service information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Blvd., Long Beach, Calif. 90846, Attn: Director, Publications and Training, C1-750, (54-60).

Also a copy of the Service Bulletin may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591 or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009.

SUPPLEMENTARY INFORMATION: 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. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Analysis has shown that a right upper wing or VHF antenna anti-ice valve monitor could fail without knowledge of the flight crew. Under certain conditions this could result in asymmetric ice accretion on RH wing surfaces or could produce ice ingestion in No. 2 engine.

The monitor, without maintenance testing, could remain passively failed. The monitored valves have demonstrated a relatively high failure rate. A subsequent valve failure under these conditions could leave the aircraft without anti-ice protection without knowledge of the crew.

Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require testing of the valve monitors and modification of the monitor circuitry on certain DC-10 airplanes.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas.—Applies to DC-10-10, -10F, -30, -30F and -40 airplanes. Serial Numbers corresponding to manufacturer's fuselage Numbers 1 through 257, certificated in all categories.

Compliance is required as indicated.

To reduce the probability of an unannounced anti-ice system failure, accomplish the following:

a. Within the next 300 hours' time in service from the effective date of this AD, unless previously accomplished within the last 3,000 hours' time in service, accomplish the tests specified below.

Test Procedure for Wing/Antenna Anti-Ice System Passive Failures:

1. Remove power from all AC and DC buses.
2. Open "Batt Direct and Left Emer DC Feed" circuit breaker on overhead CB panel.
3. Disconnect P1-837 at center accessory compartment right hand (CAC-R) disconnect panel.
4. Restore power to DC buses 1 and 3. (Other buses may be energized if desired).
5. Pressurize No. 3 pneumatic system to at least 15 psig per instructions in the Maintenance Manual Chapter 36-00-00.
6. Place Wing and Ant Anti-Ice switch to Test position and verify that Wing and Ant Anti-Ice Disagree light comes on and goes off.

Caution.—Wing ice protection must not be operated in test position on the ground with engines or APU operating or with pneumatic ground supply connected for more than 30 seconds. Failure to observe this precaution can result in overheating wing leading edges, causing damage.

Note.—The above caution is not applicable if an external ground pneumatic source with air temperature controlled at 190° F (88° C) or less is used.

7. Release Wing and Ant Anti-Ice switch and verify Wing and Ant Disagree light comes on and goes off.
8. Depressurize No. 3 pneumatic system, remove power from all AC and DC buses, and verify "Batt Direct and Left Emer DC Feed" circuit breaker is open.
9. Reconnect P1-837 at CAC-R panel and restore power to aircraft as required.
10. Open "Wing and Ant Anti-Ice Disagree Lts" circuit breaker on upper main CB panel.
11. In lower galley or forward cargo area as applicable, gain access to antenna valve.
12. Disconnect P1-2472 from antenna valve position switches.
13. Close circuit breaker listed in Step 10.
14. Pressurize No. 3 pneumatic system to at least 15 psig per instructions in Maintenance Manual Chapter 36-00-00.
15. Place Wing and Ant Anti-Ice switch to Test position and verify that Wing and Ant Anti-Ice Disagree light comes on and goes off.

Caution.—Wing ice protection must not be operated in test position on the ground with engines or APU operating or with pneumatic ground supply connected for more than 30 seconds. Failure to observe this precaution can result in overheating wing leading edges, causing damage.

Note.—The above caution is not applicable if an external ground pneumatic source with air temperature controlled at 190° F (88° C) or less is used.

16. Release Wing and Ant Anti-Ice switch and verify Wing and Ant Disagree light comes on and goes off.

17. Open circuit breaker listed in Step 10.

18. Reinstall P1-2472 connector on antenna valve.

19. Restore aircraft to normal operating condition.

Note.—Steps 1 through 7 check the integrity of the VHF antenna anti-ice valve and monitoring circuit. Steps 10 through 16 check the integrity of the right wing anti-ice valve and monitoring circuit.

b. If Steps a.6 and 7 or a.15 and 16 are not satisfactorily accomplished, repair the unsatisfactory condition, or restrict the aircraft from flight in icing conditions.

c. Within one year from the effective date of this AD provide for performance monitoring of the wing and antenna anti-ice systems by separate lights in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Note.—McDonnell Douglas Service Bulletin 30-47 dated December 5, 1978 provides a satisfactory method of accomplishment.

d. Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85]

Note.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, California on May 14, 1979.

Leon C. Daugherty,

Director, FAA Western Region.

[FR Doc. 79-16253 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Parts 71 and 75]

[Airspace Docket No. 79-SW-9]

Extension of Airway and Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend V-81 airway from Midland, Tex., via Fort Stockton, Tex., and Marfa, Tex., to the United States/Mexican Border and extend J-42 from Dallas-Fort Worth, Tex., via Abilene, Tex., and Fort Stockton, Tex., to the United States/Mexican Border. This action would comply with the request by the Government of Mexico to join their airway from Chihuahua and jet route from Delicias in Mexico. Flight planning and communication time would be reduced by designating the routes as an airway and a jet route.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 79-SW-9, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY 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 Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 25, 1979, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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 docket 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 amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) that would extend the United States portion of V-81 from its present terminal at Midland to begin at Chihuahua, Mexico, and continue via Marfa and Fort Stockton. Also, to extend the United States portion of J-42 from its present terminal at Dallas-Fort Worth to begin at Delicias, Mexico, and continue via Fort Stockton and Abilene. These routes would improve trans-border flight operations by providing charted bearings, distances, altitudes and abbreviated identifiers which help to reduce flight planning and communication time.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR 307, 722) as follows:

§ 71.123 [Amended]

In § 71.123, under V-81 "From Midland, Tex., via" is deleted and "From the Chihuahua, Mexico, NDB, via Marfa, Tex.; Fort Stockton, Tex.; Midland, Tex.;" is substituted therefor. Also, "the airspace outside the United States is excluded." is added.

§ 75.100 [Amended]

In § 75.100, under Jet Route No. 42 "From Dallas-Fort Worth, Tex., via" is deleted and "From Delicias, Mexico, via Fort Stockton, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.;" is substituted therefor. Also, "The portion of this route outside of the United States is excluded." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26,

1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16130 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-RM-15]

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend Victor Airway V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. This action would improve air traffic control efficiency by providing a reduced mileage route between those two points to accommodate an increased instrument traffic requirement in that area.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 79-RM-15 Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY 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 Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before June 25, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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 docket 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 Section 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. This action would provide a shorter route between those points and would benefit an increased amount of IFR aircraft operations within that area.

The proposal would extend V-55 from Grand Forks, N. Dak., via the intersection of Grand Forks, N. Dak., 239°T (230°M) and Bismarck, N. Dak., 066°T (055°M) radials to Bismarck. The airspace from 3,500 feet MSL to 10,000 feet MSL between points 42 miles and 76 miles southwest of Grand Forks would be excluded during the time that the Devils Lake East Military Operations Area (MOA) is active.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

§ 71.123 [Amended]

Under V-55—"Grand Forks, N. Dak." is deleted and "Grand Forks, N. Dak.; INT Grand Forks 239° and Bismarck, N. Dak., 066° radials; Bismarck. The airspace from 3,500 feet MSL to 10,000 feet MSL between 42 miles and 76 miles southwest of Grand Forks is excluded during the time that the Devils Lake East Military Operations Area is activated by NOTAM" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16131 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-EA-9]

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Victor Airway V-297 from Johnstown, Pa., to the Talls Intersection via the 326 magnetic radial of Johnstown. This action would improve air traffic control efficiency by establishing the airway with a radial coincidental to an instrument approach procedure to the Johnstown Cambria County Airport and providing additional lateral separation from the Westmoreland County Airport terminal area.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA

Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 79-EA-9, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY 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 Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 25, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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 docket 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 § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-297 from Johnstown, Pa., to the Talls (Pa.) Intersection via the Johnstown 320° T (326°M) radial. The realignment of V-297 via Tall Intersection would improve air traffic handling in the Johnstown-Latrobe area by establishing V-297 with a common radial coincidental to that used for the VOR Runway 15 instrument approach procedure to the Johnstown-Cambria County Airport. It would also provide additional lateral separation from the Westmoreland County Airport terminal area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

§ 71.123 [Amended]

Under V-297—"INT Johnstown 315° and Clarion, Pa., 222° radials;" is deleted and "INT Johnstown 320° and Clarion, Pa., 176° radials; INT Johnstown 315° and Clarion, Pa., 222° radials;" is substituted therefore.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16132 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SO-32]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Transition Area, Macon, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will alter the Macon, Georgia, Transition Area and lower the base of controlled airspace south of the Perry-Fort Valley Airport, Perry, Georgia, from 1,200 to 700 feet AGL. A new public use instrument approach procedure has been developed for the Perry-Fort Valley Airport and the additional controlled airspace is required to protect aircraft executing the approach procedure.

DATES: Comments must be received on or before: June 29, 1979.

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

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone: 404-763-7646.

SUPPLEMENTARY 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 Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before June 29, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. 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, S.W., 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 71) to alter the Macon, Georgia, Transition Area. This action will provide controlled airspace protection for aircraft executing the NDB RWY 36 standard instrument approach procedure at the Perry-Fort Valley Airport. The Bay Creek (nonfederal) nondirectional radio beacon, which will support the approach procedure, is proposed for establishment in conjunction with the alteration of this transition area.

It is also necessary to change the transition area description to reflect the correct airport geographic position and correct the Vienna VORTAC radial upon which an extension is designated.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

§ 71.181 [Amended]

Macon, Georgia.

All after Perry-Fort Valley Airport is deleted and ". . . (latitude 32°30'36" N. longitude 83°45'51" W.); within 5 miles each side of Vienna VORTAC 321 radial, extending from the 5.5-mile radius area to 16 miles northwest of the VORTAC; within 3 miles each side of the 189° bearing from the Bay Creek RBN (latitude 32°27'48" N., longitude 83°45'57" W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN . . ." is sustituted therefor.

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

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

Issued in East Point, Georgia, on May 11, 1979.

Phillip M. Swatek,

Director, Southern Region.

[FR Doc. 79-16135 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 203]

CIVIL AERONAUTICS BOARD

[EDR 379; Docket 34291; Dated: May 17, 1979]

Removal of Certificate Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes a program for gradual elimination of virtually all operating market restrictions attached to air carrier certificates for domestic flights, except for those within Alaska or Hawaii. The notice also responds to the petition for rulemaking from several local service carriers.

DATES: Comments by: June 22, 1979. Reply comments by: July 9, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 4, 1979. The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 34291, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Roy Pulsifer, Associate Director, Licensing Programs and Policy Development, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5448.

SUPPLEMENTARY INFORMATION: As the domestic route system is now structured, each carrier is authorized by its certificate of public convenience and necessity to serve points named on one or more separate routes, which in turn are divided into segments, with each segment consisting of one or more city-pair markets. Ordinarily, service over a given route or segment is subject to conditions such as intermediate stop requirements and single-plane restrictions, that are designed to hinder or prevent operations in specific city-pair markets.

Those types of restrictions were imposed, over the course of the Board's regulation of the industry, for several reasons: to protect incumbent carriers from excessive competition, to limit the issues in a route authority proceeding, and in some cases to assure service to a community. Moreover, cities named on separate segments or routes could be served only through a stop at the segment junction point. The resulting combination of separate routes and segments, and the existence of these conditions, has prevented carriers from using their authority effectively to provide usable service and to experiment in providing new service, in many city-pair markets. While our realignment program has largely eliminated stop and long-haul restrictions in smaller markets, service in larger markets remains highly restricted, except for a few carriers expressly authorized to provide unrestricted service.

The route realignment program, which was begun in 1970, was primarily directed at removing restrictions and some conditions in smaller markets. In general, restrictions were retained or modified in order to minimize the competitive impact on incumbent carriers in the larger, more profitable markets. The procedures for realignment have also been slow-moving and costly for all involved, since certificates are realigned one at a time and only upon application by each carrier.

The rule proposed in this notice would rewrite certificates in a new format and establish a phased transition program for elimination of all route restrictions, which would be uniformly applicable to all carriers with authority for scheduled service on domestic flights, except for those within Alaska or Hawaii, and result in elimination of all certificate operating restrictions by June 30, 1981, at 6-month intervals. The restrictions in those two States are minimal, and are better handled on a case-by-case basis. It would not limit the right of carriers to file applications for the removal of a particular restriction in a particular market, under section 401(e)(7) of the Act. The policy statement of the Airline Deregulation Act gives the Board broad discretion to establish programs, consistent with the objectives of the Act, to encourage competition, as long as

they are not incompatible with the specific programs Congress has established, and are consistent with the public interest. The new Part 203 proposed here would fit this policy.

In the first phase of the transition program:

1. All long-haul restrictions would be removed;

2. One-stop restrictions would be substituted for all multi-stop and single-plane restrictions; and

3. All operating restrictions would be entirely eliminated in monopoly and minor markets, which would thus become nonstop.

As to (3) above, a traffic level of 7,300 origin/destination (O&D) and connecting passengers is used in the realignment cases and is proposed to be used again in defining minor markets in the first phase of this restriction removal program. This would put carriers that have already been realigned and those that have not been realigned on an equal basis. In successive phases the size of markets will govern the removal of one-stop restrictions with markets ranked by O&D passengers only. Simultaneously with adoption of this rule, a list of all markets with one-stop restrictions would be published indicating the markets which would be unrestricted in each of the succeeding phases. This list would be based on the latest traffic data available and would not be changed to reflect the continual changes in traffic. To do so would be administratively burdensome and would not give the carriers and the public the needed certainty of knowing when a market would be unrestricted.

In subsequent phases, a specific percentage of the markets still restricted after the first phase would have the remaining one-stop restrictions removed. One December 31, 1979, 10 percent of the smallest markets, with estimated O&D traffic of no more than 9300 passengers, would be affected. The next smallest 25 percent of the markets, with estimated O&D of no more than 16,000 passengers, would have restrictions removed on June 30, 1980. In phase 4, the next smallest 30 percent of the markets, with an estimated O&D traffic of no more than 40,000 passengers, would have restrictions removed on December 31, 1980. Finally, on June 30, 1981, restrictions would be removed from the remaining markets. These traffic estimates are only approximations, and will not necessarily correspond with the percentage cut-off in each phase. Any new market authority generated by the addition of a new point to a carrier's system would be subject to removal of its restrictions in the phase that includes that market or a market of similar size, but for notice reasons, any such restriction will not be removed before the phase following the award of new authority.

The transition program would be gradual. It would begin first with the smaller markets in the system, and then increase the size of the markets affected at 6-month intervals. By using 6-month increments, and starting with the smaller markets, disruption of the industry and the traveling public would be minimized. Also, by using this approach, the impact on the smaller carriers would be lessened. New markets would be opened over a period of time equally to all carriers, with the smaller carriers being better equipped to exploit opportunities in the smaller markets affected in the earlier phases.

At each phase of the program, the Board would issue a revised certificate to each carrier, reflecting the new authority that has resulted from the removal of restrictions in that phase. Because of the routine nature of these certificate revisions, the Board is proposing to delegate authority to the Director, Bureau of Pricing and Domestic Aviation, to issue the revised certificates. To ease the administrative handling of the program, and to simplify the form of the license, a new certificate format would be used that would individually list the authorized points and any remaining restricted markets in alphabetical order. This format would be readily adaptable to change by adding new points and those no longer restricted. Hyphenation of points would also be eliminated where separate airports exist, with each point served by a separate airport listed separately. If a carrier does not use its authority at each point, another carrier may obtain that authority under section 401(d)(5) of the Act. We find this approach more consistent with the Act's declaration of policy, which calls on us to encourage air service at major urban areas through secondary or satellite airports. Hyphenated points served through the same airport would be unchanged. Restrictions in each market will be lifted at the same time for all carriers with authority to provide service in the market. However, revised certificates will be issued initially only for the trunklines and local service carriers, since theirs are the most complicated and cover almost all restricted domestic markets. New certificates for other carriers would be issued at a later date.

Under this format, satellite airports would be treated differently from the way they were in the realignment cases. For example, in the realignment cases, new authority to satellite airports was governed by the authority at the primary airport, and at best it was equal to that given the primary airport. The following have been considered satellites of the primary point in the realignment program: Baltimore of Washington, D.C.; Ft. Lauderdale of Miami; Oakland and San Jose of San Francisco; Ontario, Long Beach, Burbank, and Orange County Santa Ana of Los Angeles. Each would now be treated as an individual airport and separate point. Since this is a major change from past practice, the Board specifically asks for comment on this issue. Also, since there would be the potential for increased air service at that point, the Board would, if there were objection from the local or State authorities controlling a particular airport, consider any specific problem raised by them on a case-by-case basis. The new format would continue to list several cities or greater metropolitan areas served through two or more airports as single points (except in the case of carrier authority that names a specific airport). Although this treatment is not consistent with the rationale for conferring named airport authority, above, it appears to be necessary because of the absence of O&D passenger data for each airport. The following are considered as single points; the greater New York area airports of JFK, LaGuardia and Newark; Chicago airports of O'Hare and Midway; Dallas airports of Dallas/Ft. Worth and Love Field; and Washington airports of Dulles and National. We ask for comments on this certificate format and on a means for measuring traffic at these airports if it is proposed to list them as separate points. The encouragement of air service to secondary or satellite airports, where consistent with local and State plans, follows the Congressional directive in section 102(a)(6) of the Act.

The reduction of domestic regulatory barriers to market entry has been a continuing process over the past 2 years, and will culminate on December 31, 1981, when the Airline Deregulation Act removes Board authority in this area. It is our policy, and that of Congress, that freer entry, leading to more competition and greater reliance on market forces, can generally better meet the transportation needs of the traveling public. The phased program proposed here would create substantial competitive opportunities for all classes of carriers, yet would be carried out in a gradual manner over a relatively short period to allow for evaluation before the Congressionally-mandated deregulation. This type of program would allow

economic efficiency and market demand to replace the Board's influence over management decisions on price and service options.

Also, the new Act contains several provisions to make sure that the removal of regulatory restraints, such as these restrictions, does not result in a downgrading of service to small communities. The unused authority and automatic entry provisions permit those carriers willing to do so to enter certain markets automatically. Further, section 419 of the Act is designed to assure essential air transportation to small communities for at least 10 years. Certificate restrictions are thus no longer needed for this purpose.

The end of domestic regulatory entry controls by 1982 creates a need for the Board to determine the proper manner and pace for phasing out restrictions on service in general. The industry should not be forced all at once from tight regulation to a totally free competitive marketplace. If this transition is to be smooth, it must move rapidly, but apply as uniformly as possible to all markets and carriers. Reliance on individual applications for restriction removal could lead to a haphazard, patchwork result, and be unfair to many carriers and markets, as the local service carriers allege. The program proposed here places maximum reliance on competitive market forces to provide needed transportation, as is Congress' policy, and would be the fairest method to the carriers and communities alike. A definite schedule of times and markets would be set forth, so that the public and the industry can plan with some certainty. The individual application procedures would be used to solve specific problems in a single market.

In addition to the phased transition program for a broad removal of restrictions for all carriers, the Board would continue to consider individual applications under section 401(e)(7) for removal of a restriction in a specific market. The rule would not limit the right of any air carrier to file such an application for a single market or a single restriction. Procedures for these applications are in Subpart Q of Part 302 (14 CFR Part 302), recently adopted by the Board (PR-201, 44 FR 24266, April 25, 1979). Alternatively, applications accompanied by a show-cause petition and applications accompanied by a motion to consolidate with such an application may be submitted. Applicants would be required to meet the service requirements of Subpart Q by sending copies of the application to other air carriers serving the market, State and local aviation authorities, and the local government.

Sections 203.6 and 203.7 of the proposed rule are interpretive rules concerning the effectiveness of the authority granted and the ineligibility for subsidy of any new operating authority obtained because of the removal of a restriction. Since the removal of restrictions would create new authority for each carrier, this authority could become subject to a dormant authority application under section 401(d)(5) of the Act. To prevent confusion about the time for which the dormant authority period would begin to run, any new authority received under this program would be effective on the date the restriction was removed under proposed § 203.3 or by order of the Board under proposed § 203.5. Also, any market generating more than 20 passengers enplaned each day would continue to be considered Category II subsidy-ineligible under section 406 of the Act.

On December 20, 1978, six local service carriers (Piedmont Aviation, Allegheny Airlines, Frontier Airlines, North Central Airlines, Ozark Air Lines, and Southern Airways) jointly filed a petition for rulemaking, asking the Board to establish standard procedures for dealing with restriction removals. These local service carriers argued that in order for the Board to consider the full competitive impact of any removal of operating restrictions, individually or collectively, standard procedures should be used that would have two principal elements: 1) a requirement for complete disclosure of the authority requested and its potential impact, and 2) a requirement for contemporaneous consideraiton of restriction removal applications. Also, they proposed that common deadlines be established for each year through 1981 for removal applications, with three rounds each year: first, non-trunkline carriers; second, small trunks; and third, large trunklines. Their proposal also included procedural protections for objecting carriers.

The local service carriers premised their proposal on the argument that a sudden grant of pending restriction removal applications could significantly affect the competitive structure of the industry by causing an overwhelming increase in route authority for the trunks, enhancing the ability of these large carriers to compete with local service carriers in their traditional markets. They further argued that grant of applications without information on the competitive impact would be inconsistent with the intent of Congress in section 401(e)(7) of the Act. They contended that it is Congress' intent that restriction removal should be gradual, and approval of applications should not be automatic or be granted on general "public interest" grounds. They also stated that under the Act's Declaration of Policy (49 U.S.C. 1302), the Board is to avoid unreasonable industry concentration and to continue the strengthening of small air carriers to assure a more effective, competitive airline industry. The local carriers argued that these statements of Congressional intent and policy justify procedures that would favor removal of restrictions affecting them prior to those affecting the trunklines.

Answers have been filed by four trunkline carriers (Trans World Airlines, Delta Air Lines, American Airlines, and Eastern Air Lines), each opposing the petition. They argued that the petition's proposals discriminate against the trunkline carriers, and attempt to protect the local service carriers from competition—results that are inconsistent with the Airline Deregulation Act. Eastern asserted that the proposals of these carriers for information to be included in the restriction removal requests are also contrary to the intent of Congress, stating that while requests should show that removal of certain restrictions would be in the public interest, the burden of showing the potential impact on other carriers should be on the opponents.

While we certainly agree that the Congressional statements cited by the local carriers should be applied to removal of operating restrictions, this does not justify such a discriminatory policy. Congress explained its intent further by stating that these policy statements should not be interpreted to preclude large air carriers from new routes, but instead are intended to direct the Board to offer small carriers more route opportunities (H.R. Rep. No. 1779, 95th Congress, 2nd Sess. 56 (1978). Small carriers are thus to be strengthened by increased competitive opportunities, not by expansion of protective regulations.

The Board recognizes that all carriers are not currently in the same competitive position as deregulation progresses. The local service carriers have less equipment, and the aircraft they do have are generally for use on short-stage-length medium-density routes. The large trunks, however, generally have aircraft suited primarily for longer-haul, higher density routes. The organizational and operational inefficiencies of some of the trunklines, which may have been supportable in the pre-deregulation era, have now become

a heavier burden in a time of discount fares and low yields. Both groups of carriers are thus at some disadvantage with respect to entering markets the other has traditionally served. For these reasons, while the Board is sympathetic to the concerns of the local carriers, there does not appear to be justification for procedures that favor one group of carriers over another. Also, as the Board stated in the *Improved Authority to Wichita Case*, Order 78-12-106, December 14, 1978, the fact that in 3 years the entire system will be open, with the resulting spillover effect in the interim, will ensure that there will be sufficient competition opportunities available to all classes of carriers. Air carrier managements can also then plan ahead with the knowledge of the type of environment in which they must operate. The phased program proposed here, by setting definite dates for automatic removal of certain restrictions in specific markets, furthers this planning.

The local service carriers also argued that the large route systems of the trunklines and access to feed traffic could lead to greater concentration in the industry. This same argument was made in the *Wichita Case* in opposing our policy of multiple permissive entry. As we stated in that case, the size of a carrier cannot necessarily be equated with financial strength. Also, the advantage of a large integrated system can be offset by the specialization and regionally-tailored service of many small carriers. While it may be true that in some cases a larger trunkline may win a competitive battle with a smaller regional, specialized carrier, the marketplace itself should be allowed to make the decision about which service pattern or combination should prevail. In the past small carriers without extensive feeder systems have successfully competed against larger carriers, and are likely to continue to do so.

The Board has tentatively decided to grant the petition in part and deny it in part. Any request in the petition not specifically granted is denied.

The local service carriers raised several other points in their petition. They asked for more lengthy filing requirements, and for institution of once-a-year deadlines for all restriction removal requests. The procedure in Subpart Q, however, for processing individual applications with consideration of an extension of the period for responses in complex cases, gives both the Board and the parties adequate opportunity for investigation and review. The procedures suggested by petitioners would create delays that would slow the processing of all applications. In our judgment the Act and the Board's procedures allow for in-depth investigation of those cases where there might be serious harm, and there is insufficient reason to impose procedural delays where not needed in the public interest.

To consider simultaneously the effects of all requests for route realignment is not feasible. The strategies of participants in a free market are constantly changing as they react to demand fluctuations and to the actions and reactions of other firms. Accordingly, the effects of the rule would not be foreseeable. Any possible benefits from trying to predict these complex effects would be outweighed by the costs it would impose on consumers by restricting competition while the process went on.

In a footnote to the petition, the local service carriers stated that, because of the scope of the authority involved in broad restriction removal, the Board would have to prepare an environmental impact statement before taking final action. We do not agree that a separate impact statement will be necessary here. Although a natural outgrowth of our route realignment program, this rulemaking is also closely related to our evolving policy of freer entry. As we indicated in the *Improved Authority of Wichita Case*, Order 78-12-106, December 14, 1978, p. 13, we are already working on a draft environmental impact statement that will consider the consequences of a general regulatory policy of essentially open entry. That draft statement will be issued, and perhaps finalized, by December 31, 1979. The breadth of the issues that will be covered in that impact statement will clearly be broad enough to encompass those contained in this rulemaking. In the meantime, we need only consider the environmental consequences of the first phase of our proposed restriction removal rule which will take effect August 1, 1979. (If a final impact statement has not been issued before the subsequent phases of the proposed rule take effect, or if it appears that a general policy of freer entry will have a significant adverse environmental impact, we will consider the specific environmental impact, if any, of the next phase of the proposed rule before it is implemented.)

The first phase of the proposed rule most closely resembles our route realignment program. Both are designed to maximize opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate restrictions that serve no useful purpose, are inconsistent with current statutory and policy guidelines, impair meaningful market development, and inhibit significant improvement in carrier performance. By enabling carriers to operate more efficiently and increasing opportunities for improved scheduling, operating flexibility and equipment use, phase one of the proposed rule will produce greater opportunities for reduction in fuel consumption, air pollution and ambient noise levels. While it is possible that some net increase in service may be provided as a result of phase one, it will likely be relatively minor and cannot be projected with any degree of specificity. In short, the overall environmental impact should be favorable. We therefore tentatively conclude that the first phase of the proposed rule will not constitute a major federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, (42 U.S.C. 4321, *et seq.*). Moreover, as phase one of the proposed rule will probably lead to a more efficient use of fuel through the greater opportunity to provide nonstop and single-plane service in place of multi-stop and online connecting service, we tentatively conclude that it will not constitute a major regulatory action requiring an energy statement under the Energy Policy and Conservation Act (24 U.S.C. 6201, *et seq.*).

Proposed Rule

1. The Board proposes to amend 14 CFR Chapter II by adding a new Part 203 to read as follows:

PART 203—REMOVAL OF CERTIFICATE RESTRICTIONS

Sec.

203.1 Scope.
203.2 Applicability.
203.3 Timetable for automatic removal of restrictions.
203.4 Issuance of revised certificate.
203.5 Individual air carrier applications.
203.6 Effective date for new authority.
203.7 Subsidy ineligibility.
203.8 Sunset provision.

§ 203.1 Scope.

This part establishes a procedure for the gradual elimination of operating restrictions in the certificates of air carriers for domestic scheduled service flights, except for those within Alaska and Hawaii, by June 30, 1981.

§ 203.2 Applicability.

The procedures in this part apply to all air carriers certificated under section

401 of the Act, and to any operating restrictions attached to a certificate authorizing flights between points within the United States, except for those within Alaska or Hawaii.

§ 203.3 Timetable for automatic removal of restrictions.

Effective on the dates indicated in this section, the Board hereby removes the restrictions contained in certificates of public convenience and necessity granted to air carriers under section 401 of the Act.

(a) On August 1, 1979:

(1) All operating restrictions attached to air carrier certificates imposing a long-haul requirement shall cease to be in effect.

(2) All operating restrictions precluding single-plane service or specifying an intermediate point or requiring service to more than one intermediate point on a route shall be changed to specify only one stop.

(3) All operating restrictions specifying one stop in minor markets that enplane not more than 7,300 origin/destination and connecting passengers each year, and in monopoly markets, shall cease to be in effect.

(b) On December 31, 1979, all one-stop operating restrictions attached to certificates for the following markets shall cease to be in effect:

[List of smallest 10 percent of markets to be published with final rule.]

(c) On June 30, 1980 all one-stop operating restrictions attached to certificates for the following markets shall cease to be in effect.

[List of next smallest 25 percent of markets to be published in final rule.]

(d) On December 31, 1980, all one-stop operating restrictions attached to certificates for the following markets shall cease to be in effect:

[List of next smallest 30 percent of markets to be published in final rule.]

(e) On June 30, 1981, all remaining one-stop operating restrictions attached to certificates shall cease to be in effect.

(f) Restrictions contained in any new market authority shall be removed in the phase that includes that market or a market of equivalent size, except that where the date for removing restrictions in that market is already past, any such restrictions will be removed in the phase following the award of new authority.

§ 203.4 Issuance of revised certificate.

At each stage specified in § 203.3, the Board will issue a revised certificate reflecting any changes in an air carrier's authority, and listing authorized points and any remaining restricted markets in alphabetical order. Revised certificates shall be issued first to trunkline and local service carriers, and then to other air carriers. Delay in issuance of a revised certificate, however, shall not affect the removal of restrictions effectuated by § 203.3

§ 203.5 Individual air carrier applications.

Nothing in this part limits the right of an air carrier at any time to file an application for removal of any term, condition, or limitation in an individual market or of any single restriction. procedures for the filing of applications and answers under this section shall be governed by Subpart Q of Part 302 of this chapter, unless the application is accompanied by a petition for show-cause procedures or a motion to consolidate with an application accompanied by such a petition.

§ 203.6 Effective date of new authority.

For purposes of determining unused authority under section 401(d)(5) of the Act, any new authority received by an air carrier under this part shall be effective on the date the restriction is removed under § 203.3 or by order of the Board under § 203.5.

§ 203.7 Subsidy ineligibity.

Any nonstop authority given an air carrier under this part for markets with more than 20 origin/destination and connecting passengers enplaned each day shall be considered Category II subsidy-ineligible under section 406 of the Act.

§ 203.8 Sunset provision.

This part shall cease to be in effect on January 1, 1982, unless the Board takes further action.

2. The Board proposes to amend 14 CFR 385.13 by adding a new paragraph (rr) to read:

§ 385.13 Delegation to the Director, Bureau of Pricing and Domestic Aviation.

* * * * *

(rr) To issue revised certificates of authority to air carriers showing new authority granted by removal of operating restrictions under Part 203 of this chapter.

(Secs. 102, 204, 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 754, 92 Stat. 1706, 1710, 49 U.S.C. 1302, 1324, 1371. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16206 Filed 5-23-79; 8:45 am]

BILLING CODE 6320-01-M

[14 CFR Part 399]

[PSD R-61; Dockets 31290, 27417; Dated: May 17, 1979]

Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Proposed Rule.

SUMMARY: The Board is proposing to modify its Domestic Passenger Fare policies to reflect the Airline Deregulation Act of 1978. We also propose eliminating the 30 percent upward fare zone allowed local service carriers.

DATES: Comments due by: June 25, 1979. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to Docket 31290, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Michael B. Fingerhut, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-6064.

SUPPLEMENTAL INFORMATION:

A. *Introduction.* With this Notice, we begin the second phase of our reexamination of the pricing and fare structures policies developed in the *Domestic Passenger Fare Investigation (DPFI).* In the first,[1] we vacated several of these policies, relaxing the Board's pervasive control over the pricing behavior of the air transportation industry. We vacated the Phase 9[2] requirement that carriers charge

[1] PS-80 (August 25, 1978); PR-177 (August 25, 1978); ER-1072 (August 25, 1978); and Order 78-8-152 (August 25, 1978). 43 FR 39522 (September 5, 1978). (Referred to as PS-80). *See also* Notice of Proposed Rulemaking EDR-353/PDR-52/PSDR-51 (April 13, 1978).

[2] Phase 9 (Fare Structure), Order 74-3-82 (March 18, 1974) and Order 74-12-109 (December 27, 1974). Also printed in CAB *DPFI* volume at p. 759.

identical fares for all markets of equal distance on a formula basis; we eliminated the Phase 9 finding prescribing first class fares at a fixed percentage over formula coach fares; and we rescinded our Phase 5 [3] policies requiring carriers to demonstrate that proposed discount fares would have a favorable profit impact and to mark these fares for cancellation no later than 18 months ahead.

In their place, we adopted new policies designed to create a regulatory climate in which carriers are able to engage in normal fare price competition on a market-by-market basis relatively free from government intervention. We established a broad range over which carriers are able to set their fares with a limited risk of suspension. The ceiling of this range is the *DPFI* coach fare formula adjusted by the Board's fare level standards.[4] Carriers have the flexibility, however, to price their services up to 10 percent above the ceiling in certain presumptively competitive markets; [5] in other markets, the carriers are able to price their services up to five percent above the ceiling on a certain number of peak days throughout the year.[6] The floor of the range is 50 percent of the ceiling fare level although carriers have the flexibility to reduce their fares to 70 percent below the ceiling on 40 percent of their available seat miles per week. Within this entire zone, carriers are free to either lower or raise their fares without submitting an economic justification, and we will not suspend these fares on grounds of the reasonableness of the level unless an opponent can show that the fare imminently threatens a substantial and irreparable harm to competition.[7]

Finally, we modified the joint fare prescriptions set forth in Phase 4 [8] so that the maximum joint fares are now based on ceiling fares (less terminal charges) or the sum of the actual local fares, whichever, is less.[9] Although we announced that we would examine the entire issue of mandatory joint fares in this phase, we found that this amendment was necessary, at least on an interim basis, to achieve our goal of a more price competitive air trasportation industry. As explained in EDR-353, the Phase 4 maxima are based upon a specific relationship to the actual local fares, involving a substantial reduction from their sum. Absent this change, a carrier wishing to lower its normal fare in a particular market would have risked substantial yield dilution from the joint fares affected, thereby inhibiting its incentive to exercise its new pricing freedom. Our amendment, therefore, removes this potential constraint. At the same time, passengers who depend on interline service for their travel are protected by joint fare maxima no greater than the ones they would otherwise pay; and because of our decision requiring that joint fares be no higher than the sum of the actual local fares, they are able to benefit from the normal fare competition permitted by PS-80.

In addition to the question of joint fares, the Board had planned on dealing with the more technical aspects of the *DPFI* policies in this phase, including the issues of the fare formula and fare basing mileage.[10] It is no longer necessary to do so. In October 1978, Congress passed and the President signed the Airline Deregulation Act of 1978 (Act),[11] which alters substantially the Board's power to regulate air transportation. We will discuss how the changes in the Board's ratemaking authority affect our policies established in PS-80 below; but, generally, the Act supports our decision to allow the carriers considerable freedom to set their prices on a market-by-market basis as demand conditions and their individual costs warrant.

Indeed, the Act limits the Board's discretion to prescribe fare levels in domestic and overseas markets. We must compute a "standard industry fare level" (SIFL) for each interstate and overseas pair of points and for each class of service, using the fare level in effect on July 1, 1977, updated by the percentage change in operating costs per available seat mile (ASM) for interestate and overseas air transportation combined [1002d(6)(A)]. And in determining this change, we cannot make any adjustment to costs actually incurred [1002d(6)(B)]. Once computed, the SIFL becomes the benchmark for measuring a statutory zone of reasonableness.[12] Generally, the Board cannot find fares proposed within it unjust or unreasonable, except on predatory grounds; [13] nor can we suspend them unless we believe that they may be predatory.[14]

Congress has, in general, decided, therefore, that the Phase 9 fare formula, adjusted for changes in actual operating costs, produces a reasonable fare level in each interstate market.[15] It has decided, also, to give carriers considerable freedom to price services in each market either below or above this level enabling them to develop fare structures suitable to the consumer demand and competitive conditions in the market, rather than being tied to the

[3] Phase 5 (Discount Fares), Order 72-12-18 (December 5, 1972) and Order 73-5-2 (May 1, 1973). Also printed in CAB *DPFI* volume at p. 226.

[4] We also decided to adjust the ceiling on the basis of changes in cost, alone, adjusted by the *DPFI* fare level standards.

[5] We have defined these markets as those in which four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis.

[6] In markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either an unrestricted or restricted basis, carriers are allowed this upward flexibility on 110 days per year; in monopoly markets, carriers can use this flexibility on 58 days per year.

[7] To evaluate whether a suspension might be justified, the Board adopted a four-part test similar to the one used by the courts in determining whether to grant a stay or preliminary injunction. *See* section 399.31(f) of the Board's Policy Statement [49 CFR 399.31(f)] for the four elements of test.

[8] Phase 4 (Joint Fares) Order 74-3-80 (March 18, 1974) and Order 74-12-108 (December 27, 1974) as amended by Order 75-8-126 (August 26, 1975). Also printed in CAB *DPFI* volume at p. 75.

[9] We also adopted policies leading toward the elimination of the "point-beyond" and "hidden-city" rules required to be used to construct joint fares (PS-80 p. 48-49).

[10] EDR-353, p. 5.

[11] P.L. 95-504 (October 24, 1978).

[12] The lower limit of the zone is 50 percent below the SIFL [1002(d)(4)(B)], although the Board may widen the downward zone by rulemaking [1002(d)(7)]. The upper limit is five percent above the SIFL [1002(d)(4)(A)]. The latter does not become effective until July 1, 1979, however. Also, any fare increase proposed by a carrier in a market where such carrier provides air transportation to 70 percent or more of the passengers in the market is still subject to the traditional test of reasonableness and may be suspended.

[13] Predatory is defined in section 101(35) of the Act as "any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12)." The Board's jurisdiction over fares generally ends December 31, 1982.

[14] See Section 1002(g) which provides that the Board shall not suspend any proposed tariff unless the Board is empowered to find the proposed fare unjust and unreasonable and is empowered to determine and prescribe the lawful, or maximum, or minimum fare. The Board retains its jurisdiction to investigate, but not suspend, fares within the zone that may be unjustly discriminatory, unduly preferential or unduly prejudicial; and we can, after notice and hearing, determine its lawfulness. *See* section 1002(d)(1) and 1002(d)(2); *see also* Report of the Senate Committee on Commerce, Science and Transportation on 2493 at p. 109. In any proceeding under section 1002(d)(1) the party opposing any fare in interstate or overseas air transportation on the basis that it is too low has the burden of proof. [1002(d)(5)]

[15] On an industry basis, the formula produces fares below average cost (as defined in the *DPFI*) in short-haul markets and fares above these costs in longer-haul markets. The Phase 9 fare formula applies to fares within the 48 contiguous states and the District of Columbia; it does not apply to mainland-Hawaii and intra-Hawaii fares; to mainland-Puerto Rico fares; or to mainland-Alaska and intra-Alaska fares. Fare policies for the mainland-Hawaii and intra-Hawaii markets have been proposed in EDR-373/PDR-64/PSDR-57; fare policies for the mainland-Puerto Rico have been proposed in EDR-366/PDR-58/PSDR-52. *See also* our policy statement on intrastate fares levels within California, Texas and Florida, PS-82 adopted February 7, 1979.

one developed by the Board for the industry as a whole.[16]

In other words, Congress has endorsed the basic feature of PS–80 that the responsibility for pricing decisions properly belongs in the hands of carrier managements under the discipline of a competitive marketplace. It has taken us out of the business of determining the reasonableness of fares, at least within the statutory zone, and instead has directed us to guard against any anticompetitive pricing behavior during the transition from a highly regulated industry to a freely competitive air transportation system.

This new statutory mandate makes it unwise and unnecessary to examine the Phase 9 fare formula and related questions (other than how to adjust it for cost increases); in fact, to begin tinkering with the formula would be inconsistant with the statute.[17] Thus, the only *DPFI* policy remaining to be reexamined is the question of mandatory joint fares and how to divide them.[18]

Originally, we had planned on dealing with this question together with the modifications in our PS–80 policies which we believe are necessary in light of the new Act. We have now decided to consider them separately. Our fare policies must be in place by July 1, 1979, and because the issue of joint fares is complex and is likely to be controversial, its consideration here might delay the entire proceeding. Thus, the changes in our PS–80 policies will be discussed below and we will issue a separate Notice on joint fares in the near future.

B. *Proposed Changes to the Board's PS–80 Policies.* Before Congress passed the Airline Deregulation Act of 1978, substantially reducing our regulatory grip over the airlines, the Board, on its own, had begun eliminating many of the restrictive pricing policies of the past, replacing them with new ones designed to allow the carriers the flexibility to determine their own fares in each of their markets. As a result, we already have in place ratemaking policies which reflect our new pro-competitive charter. Indeed, Congress, fully aware of our actions giving the airlines more pricing freedom, enacted the fare provisions in order to prevent future Boards from returning to the restrictive policies of the past and to minimize the risk of legal challenges to them in the Courts.[19] We will, of course, modify our PS–80 policies to conform to the Act. But, we do not believe that many changes are necessary.

1. *Fare Flexibility Above the Ceiling.*[20] Our domestic fare policy allows the carriers some flexibility to raise their fares above the ceiling with limited risks of suspension, depending upon the number of competitors (actual or potential) in the market. Carriers now have the authority to price their services up to 10 percent above the ceiling in markets with at least four carriers authorized to provide nonstop service. In two and three carrier markets, carriers are able to raise their fares up to 5 percent above the ceiling on 110 days of the year, and in monopoly markets, carriers have the flexibility to raise their fares up to 5 percent above the ceiling on 58 days of the year.

Congress also has recognized the need for allowing carriers limited pricing flexibility above fare levels based on industry averages. It has eliminated our power to suspend any fare increases up to 5 percent above the standard industry fare level (SIFL) on or after July 1, 1979, between any interstate or overseas pair of points where the carrier proposing the increase does not provide air transportation to 70 percent or more of the persons travelling in air transportation between such points [1002(d)(4)(A)]. Although this provision, obviously, limits our power to prevent fare increases within the statutory zone beginning July 1, 1979, it does not affect our authority to regulate fare increases before that date or diminish our ability to control fare increases above the statutory upper limit after June 30, 1979.[21] Congress has left intact our power to determine the reasonableness of fares outside of the statutory zones including our power to establish "no-suspend" zones of upward fare flexibility above the statutory zone which we believe would be in the public interest. We, therefore, are not required by the Act to narrow any of the upward "no-suspend" zones established by PS–80. In fact, because of the impending five percent upward fare flexibility permitted by the Act on or after July 1, 1979, we have tentatively decided to expand the scope of the upward zone governing two and three carrier markets by eliminating the 110 day per year limitation on the 5 percent upward flexibility allowed to carriers in those markets. We have decided also that it would be reasonable and consistent with the purposes of the Act to allow a carrier the legal discretion to price its services above the SIFL within the zones established by PS–80 (as modified here) even though it may provide air transportation to 70 percent or more of the passengers travelling in the market.[22] This would avoid unnecessary confusion for the carriers and would enable the Board to monitor the behavior of prices in the upward zones more easily.

2. *Fare Flexibility Below the Ceiling.* We do not believe any changes in the downward "no-suspend" zone

[16] Of course, fare structures that are unjustly discriminatory, unduly preferential, or unduly prejudicial continue to be proscribed by the Act. The Board has recently issued an Policy Statement concerning price discrimination. *See* PSDR–58 dated April 6, 1979.

[17] Obviously, the issue of changing the various fare level standards developed in the *DPFI* is moot, and we are terminating the investigation instituted in Docket 27417 to reexamine the domestic load factor standard (Part 399—Statements of General Policy, Domestic Load-Factor Standards, PSDR–43 dated August 19, 1975).

[18] The issue of joint fare divisions is being considered in Docket 34138—Phase II.

[19] See Remarks of Senator Cannon during floor discussion on S2493, Congressional Record-Senate S5850 (April 19, 1978); Remarks of Representative Anderson (Calif.) in Committee of the Whole on H.R. 12611 Congressional Record House H9842 (September 14, 1978) ("The bill . . . will prevent the CAB from returning to the policies of the past"); Remarks of Representative Johnson (Calif.) in Committee of the Whole on HR. 12611, Congressional Record House H9844 (September 14, 1978) ("The bill will also insure that the competitive policies which the CAB developed will not be set aside by the Courts."); and remarks of Representatives Ertel in Committee of the Whole on HR. 12611 Congressional Record-House H9846 (September 14, 1978) ("It is time for the Congress to catch up with the CAB").

[20] IN PS–80, we decided to use the Phase 9 fare formula adjusted by the Board's fare level standards as the fare ceiling. We also decided to update this ceiling semi-annually, on the basis of changes in costs incurred in the 48-contiguous states adjusted for the Board's ratemaking standards. The current fare ceiling has been computed on this basis and was in effect until May 15, 1979. The Act, however, speaks in terms of "standard industy fare level" defining it as the fare level in effect as of July 1, 1977, for each interstate and overseas pair of points for each class of service, [1002(d)(6)(A)], adjusted, no less than semi-annually, by the percentage changed from the last previous period in the actual operating costs per ASM, for interstate and overseas air transportation combined [1002(d)(6)(B)]. Our proposed adjustment method is discussed below.

[21] We recognize that section 1002(d)(7) expressly authorizes us to widen the downward zone but does not mention increases. We do not interpret this provision as taking away our power to consider and approve fare increases above the statutory zones. The legislative history of the Act does not reveal any intent on the part of Congress to limit our traditional ratemaking authority over fares outside the statutory zone the Congress prescribed. *See, e.g.,* Comments of Senators Magnuson and Stevenson respectively, during floor discussion on S 2493, Congressional Record-Senate S5859 and 5598, April 19, 1978.

[22] For example, if a carrier serving a market in which 4 or more carriers are authorized to provide service provided air transportation to 70 percent or more passengers in the market, it would still have the 10 percent upward fare flexibility allowed by PS–80. We emphasize, however, that our upward zones apply only to the exercise of suspension powers. Until July 1, 1979, we still have the power to find any proposed fare increase to be unreasonable. After that date, we would no longer have the power to either suspend proposed fare increases up to five percent above the SIFL or find them unreasonable in non-monopoly markets as defined in section 1002(d)(4)(A).

established in PS-80 are necessary to conform it to the Act.[23] The 50 percent floor coincides with the one established by Congress [1002(d)(4)(B)]. The only difference is that it is based upon the Phase 9 formula fare while the statutory floor is based on the SIFL which in some markets may be higher than the formula fare as a result of the leeway given local service carriers to charge 30 percent above the trunks' coach fare. We will, however, continue to use the Phase 9 formula fare (as adjusted) to compute the floor in all markets including local service carrier markets. In other words, the downward zone in these markets will be wider.[24] Our four part suspension test [25] is designed to determine whether a proposed fare decrease may be predatory and is therefore consistent without suspension powers under the Act and our statutory mandate to prevent such anticompetitive pricing behavior.[26]

3. *First Class Fares.* In PS-80, we removed all constraints on the carrier's ability to set first class fares in the 48-contiguous states. As a result, these fares are significantly below the SIFL for this class of service and in all likelihood will remain there.[27] To establish an SIFL for this class of service as a benchmark for a zone of reasonableness for first-class fares would simply be a needless exercise; we therefore have decided not to do so. Carriers will remain free to set the level of first class fares in their interstate markets.

4. *Adjustment of the Fare Ceiling.* Under section 1002(d)(6) of the Act, we must establish the SIFL by using the fare level in effect on July 1, 1977, updated by the percentage change in operating costs per available seat mile for interstate and overseas air transportation combined. In determining this change, we cannot make any adjustment to costs actually incurred.

This section clearly requires that we change the method adopted in PS-80 for updating the fare level. Under that method, we adjusted actual operating costs per passenger mile by the *DPFI* ratemaking standards of load factor, seating, utilization and depreciation. We interpret section 1002(d)(6) as eliminating these adjustments from the updating process. We also read that section as excluding from consideration an allowance for taxes and return on investment.

Details of the method we propose to use is shown in Appendix A. It should be noted that, in determining the actual cost per available seat-mile, we did not include costs attributable to traffic other than passengers in scheduled service. For example, we did not include costs related to non-scheduled operations and all-cargo service, and we have offset the revenues from belly-cargo transported on passenger-cargo combination aircraft in order to estimate seat-mile costs. We have also projected costs through September 1979, a midpoint for the next semi-annual update in the fare level.[28] Under section 1002(d)(4), we may take into consideration anticipated costs in judging the lawfulness of fare increases.[29] We encourage comments on this methodology.

C. *Local Service Carrier Fares.* In Phase 9 of the *DPFI*, the Board adopted a policy of allowing local service carriers the flexibility to raise their fares in a zone ranging up to 30 percent above the coach fare established for the trunks without submitting an economic justification.[30] This policy continued our longstanding practice of encouraging the locals to experiment with fare changes designed to maximize their revenues thereby reducing their subsidy requirements.[31] Although the Board had developed a route-strengthening program permitting them to compete with the trunks in certain markets, the locals, at that time, were serving predominantly short-haul low-density markets. Thus, we found that failure to allow the locals this flexibility would have only increased their dependence on subsidy.[32]

Today, of course, all of this is rapidly changing. Two of the locals, Allegheny and Texas International no longer receive subsidy.[33] And all of them are taking advantage of the new regulatory environment engendered by the Airline Deregulation Act, leaving the shorter-haul, lower-density markets to the commuters and expanding into the longer-haul, higher-density markets traditionally served by the trunks. Indeed, the historic distinction between the trunks and local service carriers is fast disappearing.

For these reasons, we no longer see any need to continue the 30 percent upward zone for local service carriers. Because they are rapidly entering trunk-type routes, they should be subject to the same fare policies prescribed for the trunks, including the same limitations on their upward pricing flexibility.

Nor do we believe it necessary to maintain this policy for commuter carriers who are now receiving certificate authority to serve the short-haul low-density markets traditionally served by the locals. Rather, we propose allowing them the same unrestricted freedom to set their own fares that they have enjoyed under our Part 298 policies. Although some of them have chosen to become certificated carriers, the commuters still operate in the segment of the industry that is freely competitive. Under these circumstances, it makes little sense to subject these carriers to fare regulation, especially during the relatively short transition period. Consistent with our Part 298 policies, this fare freedom will apply in those markets where these carriers operate aircraft having 60 seats or less. Also, we propose allowing any trunk or local service carrier unrestrained fare freedom on flights operated with aircraft having 60 seats or less.

Although we have tentatively decided to eliminate the 30 percent upward zone, we will not require a local service carrier who has exercised this flexibility to price its services in a market above the trunkline's coach fare level to reduce

[23] We believe that these zones are broad enough to encompass and encourage new types of innovative fares and service, and thus we do not think it is necessary to establish separate zones for each class of service.

[24] Section 1002(d)(7) expressly allows us to widen the statutory downward zone. In this regard, we need not change our 70 percent floor for off-peak periods and carriers will continue to be allowed to reduce fares to this level without first seeking our approval on 40 percent of their weekly ASM's.

[25] See section 399.31(f) of the Board's Policy Statements [49 C.F.R. 399.31(f)].

[26] In PS-80, we stated that fares that may be unjustly discriminatory unduly preferential or prejudical would still be subject to suspension on those grounds (PS-80 p. 34 fn. 90). We, of course, can no longer suspend fare decreases within the statutory zone on these grounds and our suspension powers over fare increases is limited after June 30, 1979 (*see* fn. 22 above). But, our powers to investigate fares on these grounds and determine after hearing, their lawfulness, remain intact.

[27] Currently, first class fares are only 120 percent above coach fares. The SIFL for these fares would range from 150 percent to 163 percent above coach, since on July 1, 1977, first class fares were set at these levels.

[28] In projecting these costs, we have used costs for the year ending September 1978. We expect to use more recent cost data when we compute the next semi-annual adjustment.

[29] Because we have decided to continue our policy on anticipating costs three months beyond the time we make the semi-annual adjustment to the SIFL, carriers would only have to increase their fares twice a year to offset cost increases.

[30] This policy is set forth in section 399.32 of the Board's Statements of General Policy, 14 CFR Part 399.32.

[31] *See* PS-1, 20 FR 4117, (June 11, 1955). Before the upward zone was established, the only restriction on the fare flexibility allowed the locals was a requirement that the fares be reasonable.

[32] Generally, the locals have exercised this upward flexibility in markets where they do not compete with the trunks; in markets where they do face such competition they have usually priced their service at the coach fare level of the trunks. The record in Phase 9 revealed that the fares in these noncompetitive markets generally averaged around 115 to 118 percent of the formula based coach fare. CAB *DPFI* volume at 828.

[33] *See* Order 74-6-42 (June 7, 1974) and Order 74-7-61 (July 15, 1974), taking Allegheny off subsidy; and Order 78-7-135 (July 25, 1978) and Order 78-10-97 (October 20, 1978), taking Texas International off subsidy.

its fare. Under the Act, the SIFL will be based on the predominant fare in effect for each interstate or overseas pair of points on July 1, 1977.[34] Thus, in those markets where a local carried a majority of the passengers at a fare higher than the coach fare, we will use its fare to establish the SIFL. And, of course, the SIFL based on this fare becomes the benchmark fare for all carriers, including the trunks, serving that market, providing them with an increased incentive to continue to serve it and other carriers to enter it.

In those markets where a local service carrier's fare is higher than the predominant one in effect on July 1, 1977, (as adjusted to July 1979),[35] we simply will allow it to maintain that fare but not increase it until such time as it equals the SIFL based on the lower fare. Should its higher fare, however, fall within the upward zones established in PS-80 the local will have the flexibility to raise its fare in accordance with those policies. And of course, all carriers are free to justify fares above the SIFL or the upward zones of PS-80. In this regard, we will give serious consideration to the views, either pro or con, submitted by communities affected on the merits of any such proposed increase.

In summary, our policy for computing the SIFL in various markets will work as follows: (1) in those markets where a carrier provided monopoly service with aircraft with more than 60 seats on July 1, 1977, its fare will be used to compute the SIFL; (2) in non-monopoly markets, where the carriers were providing service on July 1, 1977 with aircraft having 60 seats or more, the fare at that time of the then-predominant carrier will be used to compute the SIFL; (3) in monopoly markets where service with more than 60 seat aircraft was initiated after July 1, 1977, the initial fare for the new service of that carrier will be used to compute the SIFL; and (4) in non-monopoly markets where service with more than 60-seat aircraft was initiated after July 1, 1977, the fare offered by the predominant carrier for such service at the time the service was begun will be used to compute the SIFL.

D. *Environment.* We find and conclude that our proposal is not a major federal action significantly affecting the environment. This is based upon the evaluation prepared by our staff of the possible environmental consequences emanating from the adoption of our PS-80 policies. We incorporate by reference that evaluation into this proposal.

Accordingly the Board: terminates the investigation in Docket 27417 (Part 399—Statements of General Policy, Domestic Load Factor Standards, PSDR-43 dated August 19, 1975); and tentatively finds and concludes to: (1) rescind ordering paragraph 5 of Order 74-12-108; and (2) amend Part 399 of the Policy Statements as set forth below.

Proposed Rule

[Material underlined is new]

1. Section 311.31 would be amended to read as follows:

§ 399.31 Domestic passenger fare-level policies.

The Board's policy on the level of passenger fares for scheduled service by trunk and local service carriers in markets within the 48 contiguous states and the District of Columbia is as follows:

(a) Each carrier should have the opportunity to set fares in each market within a zone ranging to 50 percent below the *standard industry fare level.* Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the *standard industry fare level.*[1] Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent the following extraordinary circumstances:

(1) The high probability that the fare would be found to be unlawful after investigation;

(2) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

(3) The harm to competition would be greater than the injury to the travelling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest;

(b) Carriers should be free to set market fares below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level the proposed fare reductions will result in an inability of the carriers in in the market to provide adequate service to the public or the fares are otherwise unlawful; and

(c) Each carrier should be the opportunity to set fares above the *standard industry fare level* as follows:

(1) In markets where four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unretricted or restricted basis,[2] each carrier should have the opportunity to set fares in a zone up to 10 percent above the *standard industry fare level;*

(2) In markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[3] each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the *standard industry fare level;* and

(3) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to 5 percent above the *standard industry fare level* on 58 days throughout the year;

Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent a showing of unusual or extraordinary circumstances.[4]

§ 399.32 [Deleted]

2. Section 399.32 would be deleted in its entirety.

§ 399.33 [Amended]

3. Section 399.33 would be amended to read as follows:

§ 399.33 Domestic passenger fare-structure policies.[5]

The Board's policy on the structure of passenger fares for scheduled services by trunk and local service carriers in markets within the 48-contigious states and the District of Columbia is as follows:

(a) The standard industry fare level for coach/standard service *should be based upon the predominant fare in effect on July 1, 1977 updated by the percentage change from the last previous period in the actual operating cost per available seat mile for interstate and overseas transportation combined.* Coach fare proposals priced

[34] As defined in PS-82, the lowest unrestricted fare in effect on July 1, 1977 in a market is the predominant fare unless it can be shown that more passengers used a higher fare.

[35] For example, a local service carrier competing with a predominant trunk may nevertheless choose to price its services above the trunk's fare.

[1] *Where the standard industry fare level is based on a fare higher than the coach formula fare established in Phase 9 of the DPFI, the formula fare (as adjusted) should be used to compute these floors.*

[2] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

[3] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

[4] Proposed fare increases of no more than 5 percent above the standard industry fare level in any market where the carrier proposing the increase provides air transportation to less than 70 percent of the passengers in that market will not be suspended.

[5] These policies do not apply to those certificated carriers serving markets with aircraft having 60 seats or less. These carriers will enjoy unrestricted fare freedoms.

Appendix A.—*Methodology for Determining Change in Operating Expenses Per Available Seat-Mile*

	Trunks	Local's	Trunks plus local's	Total passengers/ Cargo
Year ended September, 1978:				
Total operating expense[1]	$14,081	$2,033	$16,114	$16,443
Less:				
All-cargo Expense[2]	282		282	282
Belly offset[3]	870	152	1,022	1,065
Nonscheduled[4]	193	53	246	256
Transport related[5]	419	30	449	454
Plus: Capitalized lease Adjustment[10]	78	2	80	N.A.
Passenger Operating Expense	12,395	1,600	14,195	14,471
Passenger Fuel Cost[11]	2,779	349	3,128	N.A.
Scheduled Service ASM's (thousands)	262,068	27,067	289,135	292,270
Nonfuel operating expense per ASM($)	.03669	.05361	.03828	N.A.
Fuel expense per ASM($)	.01060	.01289	.01082	N.A.
Total expense per ASM($)	.04729	.06650	.04910	.04951
Year ended September, 1977:				
Total operating expense[1]	$12,503	$1,711	$14,219	$14,521
Less:				
All-cargo Expense[2]	255		255	255
Belly offset[3]	746	103	849	888
Nonscheduled[4]	223	41	264	282
Transport related[5]	314	25	339	343
Plus: Capitalized lease Adjustment[10]				
Passenger Operating Expense	10,970	1,542	12,512	12,753
Passenger Fuel Cost[11]	2,404	289	2,693	N.A.
Scheduled Service ASM's (thousands)	247,596	24,563	272,159	274,965
Nonfuel operating expense per ASM ($)	.03460	.05101	.03608	N.A.
Fuel expense per ASM ($)	.00971	.01177	.00990	N.A.
Total expense per ASM ($)	.04431	.06278	.04598	N.A.
Percent change in nonfuel Operating expense per ASM ($)			6.10	N.A.
Projected change in nonfuel expense from April 1, 1978 to July 1, 1979[6]			7.68%	N.A.
Estimated change in fuel cost to July 1, 1979[14]			11.27%	N.A.
Nonfuel operating expense per ASM ($) at July 1, 1979[7]			.04122	N.A.
Fuel expense per ASM at July 1, 1979[7]			.01204	N.A.
Total expense per ASM at July 1, 1979			.05326	.05370
Year ended March, 1977:				
Total operating expense[1]	$11,726	$1,520	$13,316	$13,601
Less:				
All-cargo expenses[2]	238		13,316	238
Belly offset[3]	729	96	825	865
Nonscheduled[4]	220	35	255	268
Transport related[5]	427	111	538	554
Passenger operating expense	$10,112	$1,348	$11,460	$11,678
Scheduled service ASM's (thousands)	239,593	23,428	263,021	265,837
Operating expense per ASM ($)	.04221	.05754	.04357	.04393
Projected expense per ASM ($) as at July 1, 1977[13]				.04593
Projected operating expense per ASM as at August 15, 1979 (Page 1)				.05370
Ceiling adjustment factor[8]				.16.92
D.P.F.I. formula effective July 15, 1977:[12]				
Terminal charge—$16.16				
plus .*0884/mile (0–500 miles)				
plus .*0674/mile (501–1,500 miles)				
plus .*0648/mile (over 1,500 miles)				
Ceiling formula through November 14, 1979:[9]				
Terminal charge—$18.90				
plus .*1033/mile (0–500 miles)				
plus .*0788/mile (5012–1,500 miles)				
plus .*0758/mile (over 1,500 miles)				

[1] Total operating expense for all operations and service (in thousands).

[2] Scheduled all-cargo operations expense.

[3] Total scheduled-service cargo revenue, less scheduled all-cargo operations revenue, carried as a by-product in aircraft belly compartments. Includes freight, express, priority and non-priority U.S. mail, and excess baggage.

[4] Total non-scheduled revenue times .95, assuming charter operations would only be conducted at a profit.

[5] Total transport-related expense, less any excess of expense over total transport-related revenues.

[6] We here project costs from April 1, 1978 (the midpoint of the data year ended September 1978) to July 1, 1979, the resultant increase factor effective through August 15, 1979. The projection factor is 106.10 to the 1.250 power=1.250 log 106.10=107.68.

[7] Operating expense per ASM for year-ended September, 1978, times projected change to July 1, 1979.

[8] Projected operating expense per ASM on July 1, 1979, divided by the operating expense for the year ended March, 1977.

[9] Base formula cumulative adjustment factor at July 15, 1977, was 1.30895, times ceiling adjustment factor above, cumulative factor is 1.53042. Division by current 1978 factor of 1.45168 results in a 5.42 percent increase in level.

[10] Additional rental expense that would have been incurred had leases not been capitalized under FASB-13, less actual amortization of capitalized lease expense.

[11] Total fuel cost, scheduled service, times reciprocal of rates of All-Cargo expense to total Operating Expense.

[12] Order 77-7-26.

[13] Year ended March, 1979, cost per ASM, times cost escalation factor of 1.04543 (to July 5, 1977). See *DPFI* workpapers, Y. E. March, 1977.

[14] Estimated average cost per gallon for the trunk plus local service carriers at July 1, 1979, divided by average for the year ended September, 1978.

above this level or the upper limits specified under sectin 399.31(c) should be suspended unless otherwise justified; [6] carriers may propose fares lower than the ceiling in individual markets; and

(b) Carries should be free to set the level of first class fares.

(c) There should be joint fares in all markets over all routings at a level not to exceed the sum of the maximum local fares permitted by this policy statement minus one tax-rounded coach ceiling terminal charge for each interline connection. All required joint fares should be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement, provided, however, that where joint fares are based on the actual sum of the local fares, each carrier should get the local fares as its share of these joint fares.

4. The Table of Contents would be amended accordingly.

(Sections 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760 and 788, as amended; 49 U.S.C. 1324, 1373, 1374, and 1482; and 5 U.S.C. 553).

By the Civil Aeronautics Board.

Phyllis T. Kaylor.

Secretary.

[FR Doc. 79-16207 Filed 5-23-79; 8:45 am]
BILLING CODE 6320-01-M

[6] For peak fares above any of these levels, the justification should include a showing that off-peak fares are available in the market.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Hallam, York County, Pa., Under the National Flood Insurance Program

Correction

In FR Doc. 79-13909 appearing at page 26913 in the issue for Tuesday, May 8, 1979, everywhere in the document where reference is made to Hellam, PA, it should be corrected to read Hallam, PA.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 79-037]

Drawbridge Operation Regulations; Bayou Teche, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Office of Highways, State of Louisiana Department of Transportation and Development, the Coast Guard is considering establishing operation regulations for a drawbridge across Bayou Teche, mile 73.3, to require at least 24 hours notice at all times. The bridge is scheduled for completion on or about 1 November 1979. These regulations would be identical to those for the drawbridge across Bayou Teche at mile 75.2, which were established 17 January 1978. This action will relieve the bridge owner of the responsibility of having a draw tender constantly on duty.

DATE: Comments must be received on or before June 25, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Eight Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

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

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

It is proposed that these regulations be established upon completion of the S-92 drawbridge, mile 73.3, Bayou Teche, to allow this bridge to open as the ones at mile 75.2 and mile 82.0 now do (at least 24 hours notice) (§ 117.245(j)(10)(i)). Vessel traffic above this bridge presently is limited to tugs with barges transporting marine shell on a monthly basis of 2.3 passages per month. No known additional navigation is contemplated at this time.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.245(j)(10)(i) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(j) * * *

(10) Bayou Teche, La.

(i) S-92 highway drawbridge, mile 73.3, near St. Martinville, S-96 highway drawbridge, mile 75.2, at St. Martinville, and S-350 highway drawbridge, mile 82.0, at Parks. The draws shall open on signal if at least 24 hours notice is given.

* * * * *

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

Dated: May 15, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-16312 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 117]

[CGD 79-014]

Drawbridge Operation Regulations; Great Channel, Stone Harbor, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the County of Cape May, the Coast Guard is considering revising the operation regulations for the bridge across Great Channel at Stone Harbor, N.J., to permit restricted opening periods during weekends and holidays from Memorial Day through Labor Day. The revision is being considered in an effort to relieve vehicular traffic congestion during these periods while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 25, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

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

Drafting Information

The principal persons involved in drafting this proposal are: Frank L.

Teuton, Jr., Project Manger, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

Vehicular traffic congestion on roads leading to the beaches in and around the Stone Harbor area increases significantly during the periods from Memorial Day through Labor Day. In a effort to ease this congestion, the County of Cape May has requested that the opening of the drawbridge across Great Channel be restricted during peak vehicular periods. Last year, the Commander (oan), Third Coast Guard District issued trial regulations from July 1, 1978 through September 4, 1978 that required the draw open only on the hour and half hour from 8 a.m. to 6 p.m. on Saturdays, Sundays, and holidays. As a result of these trail regulations, the Coast Guard is now proposing 20-minute openings from 8 a.m. to 6 p.m. on Saturdays, Sundays, and holidays from Memorial Day through Labor Day. The Coast Guard is requesting comments from interested and affected parties regarding this proposal.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new subparagraph (r) immediately after § 117.220(q) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(r) The draw of the Stone Harbor (96th Street) bridge across Great Channel at Stone Harbor shall open on signal, except that from Memorial Day through Labor Day on Saturdays, Sundays, and holidays, the draw need open only every 20 minutes on the hour, 20 minutes after the hour, and 40 minutes after the hour from 8 a.m. to 6 p.m. However, the draw shall open on signal at all times for public vessels of the United States, vessels in distress, or for vessels with a tow.

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

Dated: May 15, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-16313 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 161]

Tank Vessel Operations—Puget Sound

Correction

In FR Doc. 79-11352, published at page 21974, on Thursday, April 12, 1979, the following corrections should be made:

1. ON page 21979, in the third column, in the fifteenth line, "maintining" should be corrected to read "maintaining";
2. On page 21980, in the first column, in the last paragraph, in the eighth line from the bottom, the word "matter" should be corrected to read "master";
3. On page 21982, in the middle column, in the eighth line of § 161.107(a), "department" should be corrected to read "depart";
4. On page 21983, in the first column, under § 161.145, in the paragraph beginning "When F. . .", the formula "V=F KD" should be corrected to read

$$" V=\sqrt{\frac{F}{KD}} ".$$

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1234-8]

Approval and Promulgation of Implementation Plans; California Plan Revision; Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Monterey Bay Unified Air Pollution Control District (MBUAPCD) has adopted changes to rules concerning air pollution emergency episodes. The intended effect of these rules is to prevent air pollution concentrations from reaching levels which could endanger or cause significant harm to the public's health. These rules have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) for the purpose of revising the California State Implementation Plan (SIP). EPA proposes to approve all of the SIP revision and to promulgate regulations where deficiencies are found.

EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act. Those wishing to request a public hearing may do so by writing to the address listed below. A public hearing will be scheduled if significant interest is demonstrated.

DATES: Comments or requests for a public hearing may be submitted on or before July 23, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Divison, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

The EPA Region IX office has established a rulemaking Docket, "Air Pollution Emergency Episode Plans" 9A-79-3, containing all information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following location: EPA Central Docket Section, Room 2903 B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Copies of Regulation VII, "Emergencies", of the MBUAPCD and EPA's "Evaluation Report and Technical Support Document" are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Monterey Bay Unified Air Pollution Control District, 1270 Natividad Road, Salinas, CA 93901.

California Air Resources Board, 1102 "Q" Street, P.O. 2815, Sacramento, CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Charlotte Hopper, Acting Chief, Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act requires that a SIP contain an air pollution emergency episode plan. 40 CFR 51.16, "Prevention of air pollution emergency episodes", specifies the minimum requirements for the content of a plan which must include provisions for taking any emission control actions necessary to prevent ambient pollution concentrations from reaching levels which could cause significant harm to the health of persons. The Significant Harm Level (SHL) is defined for six pollutants: photochemical oxidants,

sulfur dioxide, particulate matter, sulfur dioxide combined with particulate matter, carbon monoxide and nitrogen dioxide.

The original SIP submitted by the California ARB on February 21, 1972, failed to meet the requirements specified in 40 CFR 51.16. Therefore, on May 31, 1972 (37 FR 10851), EPA disapproved the emergency episode plan portion of the California SIP. In November 1973, the California ARB adopted a revised episode plan, which was submitted to EPA on February 6, 1974. The EPA proposed conditional approval of this SIP revision on June 26, 1974 (30 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the California ARB requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al.* v. *Train*, Civil No. 75-1044-WPG). According to an agreed upon schedule, EPA and the ARB worked together toward Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237), EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan (State Guideline) for three pollutants: oxidants, sulfur dioxide, and carbon monoxide. Missing from this revised plan were provisions for episodes involving nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined, although these provisions are required by 40 CFR 51.16. On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976, was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al.* v. *Costle*, Civil No. 75-1044-WPG). The EPA Administrator responded to this order with an affidavit, dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded, in accordance with the Court's order, that the plan was not complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval and reinstated the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised State Guideline which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning this recent submittal, stating that EPA intended to approve most of this State Guideline for use by the Air Pollution Control Districts (APCDs) in developing episode plans. Subsequently, the EPA developed a supplement to the State Guideline to correct deficiencies noted in that document (43 FR 60929). The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things, this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of 42 APCD's in the State of California, approving or promulgating regulations as necessary. This Notice of Proposed Rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the MBUAPCD.

Summary of MBUAPCD's Regulation VII—Emergencies

On May 25, 1977, the MBUAPCD adopted a revised Regulation VII, "Emergencies" (hereon referred to as "Regulation VII"), which was submitted to EPA as a revision to the SIP by the California ARB on November 4, 1977. Regulation VII consists of Rules 700-713 which set forth actions to be taken by industry, business, commercial and governmental activities, the public and the MBUAPCD to prevent the oxidant (O_x) air pollution concentrations from reaching levels which could cause significant harm to the public's health. These actions include: air sampling and reporting; development and processing of emission reduction contingency plans prepared by certain large industrial, business, commercial and governmental establishments; episode prediction, declaration and public notification; preparation of source inspection plans for compliance purposes; provisions for enforcement; and implementation of emission abatement actions. The abatement actions specified in Regulation VII are initiated at three separate stages, depending on the severity of the existing or pedicted O_x air pollution concentration levels. Curtailment of stationary source and vehicular emissions are required with more stringent abatement actions specified as the air pollution concentration levels increase or is predicted to increase.

EPA's Proposed Approval of Regulation VII and Replacement Regulations

Regulation VII was evaluated by comparison to 40 CFR 51.16, which sets forth the minimum Federal requirements for an approvable emergency episode plan. This evaluation is detailed in an "Evaluation Report and Technical Support Document." EPA proposes to approve those rules of Regulation VII which fulfill in part, the requirements of 40 CFR 51.16. These rules are as follows:

Rule 700, General
Rule 701, Sampling Stations
Rule 702, Air Sampling
Rule 703, Reports
Rule 704, Continuing Program of Voluntary Cooperation
Rule 705, Plans
Rule 706, Application of Rules and Regulations
Rule 707, Episode Notification
Rule 708, Episode Criteria
Rule 709, First-Stage Episode Actions
Rule 710, Second-Stage Episode Actions
Rule 711, Third-Stage Episode Actions
Rule 712, Termination of Episodes
Rule 713, Enforcement

Because not all of the Federal requirements of 51.16 are satisfied by Regulation VII, EPA will propose regulations to augment Regulation VII to correct the deficiencies. The plan deficiencies and the EPA proposed replacement regulations are as follows:

Rule 705, Plans

1. Rule 705(b) specifies the information that shall be contained in the individual curtailment plans prepared and submitted by major emission sources. However, the requirements specified are not sufficiently specific to insure that adequate emission control actions will be implemented by these major sources. EPA is therefore proposing to require that additional information be contained in both the traffic and stationary source curtailment plans following the criteria of the State Guideline as supplemented by EPA (Section VI.F, Division of Responsibility—Establishment of Criteria). This proposed regulation will provide the Administrator with the necessary information by which to implement a major national holiday abatement strategy, in the event that such action becomes necessary to abate a Third-Stage O_x episode in the MBUAPCD. The major national holiday strategy is discussed more completely under Rule 711, Third-Stage Episode Actions, below.

2. In Rule 705(a), curtailment plans required from individual emission

sources are required to be submitted only after the owner or operator of that source has been notified in writing by the Air Pollution Control Officer (APCO). However, no time frame is specified within which the APCO must notify the source's owner or operators to submit the curtailment plans. In Rule 705(g), no time limit is specified within which the APCO will review and approve or disapprove the curtailment plans once they have been submitted. Since time deadlines for both initiating the call for curtailment plans and review of the plans are needed in order to have a complete and fully implementable plan, EPA is proposing to require the submittal of curtailment plans within 60 days after final promulgation of this regulation and allows 120 days for the review and approval or disapproval of such plans after submittal.

Rule 711, Third-Stage Episode Actions

Rule 711 includes provisions for emission control measures to be taken whenever a Third-Stage O_x episode is predicted or declared. However, the measures specified do not provide for adequate mandatory abatement actions which will effectively prevent the O_x SHL from being reached. (An evaluation of the District's abatement actions is presented in an "Evaluation Report and Technical Support Document" available in Docket 9A-79-3 for this rulemaking). The mandatory Third-Stage abatement actions specified in Rule 711(e) should provide for more stringent and explicit emission control measures to be implemented by the major emission sources through their individual traffic and stationary source curtailment plans.

Rule 711(a)(2) and 710(b) lists additional emission control measures which may be implemented by the District's APCO if a Third-Stage episode is predicted or attained. However, since implementation of these actions is non-mandatory, there is no assurance that adequate emission reductions will be achieved. In addition, the choice of emission control measures to be implemented is contingent upon the District's Air Pollution Control Board and District Counsel being called into session to recommend control measures to the APCO. Therefore, even if any of these emission control measures are implemented, the District's decision-making process may result in untimely delays in implementing necessary emission control measures which must be taken immediately in order to prevent the O_x SHL from being reached.

Therefore, EPA is proposing a mandatory emission control measure to abate a Third-Stage O_x episode: the major national holiday strategy which will require the general public, schools, industrial, business, commercial and governmental activities in source and receptor areas throughout the MBUAPCD to operate as though the day were a major national holiday.

The last deficiency is that Regulation VII contains no provisions for the prompt acquisition of forecasts of atmospheric stagnation conditions and updates of such forecasts as required by 51.16(e)(1). Since these forcasts are essential for predicting episode occurrences and for allowing enough lead time to notify individual sources to initiate control actions to abate the episode, EPA's proposed regulation ensures the acquisition and updating of such forecasts.

Amendments to 40 CFR 51.16 were published on March 20, 1979 in the Federal Register (44 FR 16911). Under these amendments, the Administrator may exempt attainment or unclassifiable areas from the requirements for future emergency episode plan development.

The MBUAPCD has jurisdiction over the North Central Coast Intrastate Air Quality Control Region (NCCIAQCR) which is designated as Priority I for O_x and Priority II for TSP (40 CFR 52.221). On March 19, 1979, EPA designated the North Central Coast Air Basin, which has the same geographic boundaries as the NCCIAQCR, as nonattainment for O_x and attainement for TSP (44 FR 16392). As such, the Administrator has exempted the area under the jurisdiction of the MBUAPCD from episode plan requirements for TSP.

In summary, the EPA proposals are based on air quality and emissions data, Regulation VII of the MBUAPCD and an analysis of emission control measures. These analyses are presented in an "Evaluation Report and Technical Support Document". Incorporated into that document is a recently completed report by Pacific Environmental Services, Inc., which includes an evaluation of the existing emergency episode plan and recommendations for abatement strategies for oxidant episodes.

In proposing additional requirements or provisions, EPA has used Regulation VII as a procedural guide for ease of understanding the regulatory section of this Federal Register notice. Therefore, the terminology and general procedural details are consistent with Regulation VII.

Under Section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before July 23, 1979, will be considered. Comments received will be available for public inspection at the EPA Region IX office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: May 9, 1979.

Sheila M. Prindiville

Acting Regional Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is proposed to be amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(42)(xxiii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(42) * * *

(xxiii) Monterey Bay Unified APCD.

(A) Regulation VII, Rules 700–713.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(3), (h) and (i) as follows:

§ 52.274 California air pollution emergency plan.

* * * * *

(a) * * *

(3) Monterey Bay Unified APCD (MBUAPCD).

* * * * *

(h) The requirements of § 51.16 of this chapter are met in the MBUAPCD with the following exceptions: there is no time schedule to assure that stationary source and traffic curtailment plans are submitted and reviewed in a timely manner; there are no provisions for the acquisition of forecasts of atmospheric stagnation conditions; and adequate mandatory emission control actions are

not specified for Third-Stage Ox episodes.

(i) *Regulation for prevention of Ox air pollution emergency episodes within the MBUAPCD.*

(1) The requirements of this paragraph are applicable in the MBUAPCD.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "major national holiday" means a holiday such as Christmas, New Year's Day or Independence Day.

(iii) "Regulation VII" in this paragraph means Regulation VII, "Emergencies", of the MBUAPCD, adopted May 25, 1977, and submitted to the Environmental Protection Agency as a revision to the California State Implementation Plan by the California Air Resources Board on November 4, 1977.

(3) The plans required by Rule 705(a) of Regulation VII shall include the following information in addition to that required in Rule 705(b) of Regulation VII:

(i) Stationary sources.

(A) The total number of employees at the facility during each shift:

(*1*) On a normal weekday.

(*2*) On a major national holiday.

(B) The amount and type of fuel used:

(*1*) On a normal weekday.

(*2*) On a major national holiday.

(C) For Third-Stage episodes:

(*1*) A list of equipment and the permit numbers of such equipment not operated on a major national holiday.

(*2*) A statement as to whether or not the facility operates on a major national holiday.

(ii) Indirect sources.

(A) The total number of employees at the facility during each shift:

(*1*) On a normal weekday.

(*2*) On a major national holiday.

(B) The number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(*1*) By the company, on company business, on a normal weekday and on a major national holiday.

(*2*) By employees commuting between home and the place of business on a normal weekday and on a major national holiday.

(C) The number of parking spaces:

(*1*) Available.

(*2*) Normally used on a weekday.

(*3*) Normally used on a major national holiday.

(D) The minimum number of motor vehicles to be operated that are necessary to protect the public health or safety.

(E) For Third-Stage episodes, a statement as to whether or not the facility operates on a major national holiday.

(iii) Each owner or operator required to submit a plan as specified under Rule 705.a. of Regulation VII shall submit such plans within sixty days after promulgation of the final rulemaking.

(iv) The plans submitted in accordance with the provisions of this paragraph shall be approved or disapproved by the Administrator within 120 days after receipt.

[FR Doc. 79-16331 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1235-1]

Approval and Promulgation of Implementation Plans; California Plan Revision: Sacramento County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Sacramento County Air Pollution Control District (APCD) submitted Regulation IX, Emergency Episode Control, Rules 120-126, to the Environmental Protection Agency (EPA). The purpose of this regulation is to provide an emergency episode contingency plan in accordance with 40 CFR 51.16 that will prevent ambient air pollutant concentrations from reaching levels which could cause significant harm to public health and to abate such concentrations should they occur. These rules have been submitted to EPA by the California Air Resources Board (ARB) as a revision to the California State Implementation Plan (SIP). The purpose of this rulemaking is to approve part of the SIP revision, to propose regulations to correct deficiencies in the plan, and to take no action on part of the revision.

EPA invites written public comment concerning this proposed rulemaking and those wishing to request a public hearing may do so by writing EPA at the address listed below.

DATES: Comments or requests for a public hearing may be submitted on or before July 23, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

The EPA has established a rulemaking Docket, 9A-79-1 containing all the information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the EPA Central Docket Section at the following address: EPA Central Docket Section, Waterside Mall, Room 2903 B, 401 "M" Street, S.W., Washington DC 20460.

Additionally, copies of Regulation IX and EPA's "Evaluation Report and Technical Support Document" are available for public inspection during normal business hours at the following locations:

Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento CA 95827.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Charlotte Hopper, Acting Chief, Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX (415) 556-2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act requires that a SIP contain air pollution emergency episode plans, and 40 CFR 51.16 "Prevention of Air Pollution Emergency Episodes," specifies the minimum requirements for the content of these plans, including provisions for taking any emission control actions necessary to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons. The original SIP submitted by the State of California (for all APCDs in California) on February 21, 1972 failed to meet the requirements specified in 40 CFR 51.16. Therefore, on May 31, 1972 (37 FR 10851) EPA disapproved the emergency plan portion of the California SIP. In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on Februrary 6, 1974. EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the ARB requesting the U.S.District Court for the Central District of California to order

EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al. v. Train*, Civil No. 75-1044-WPG). According to an agreed upon schedule, EPA and the ARB worked together towards Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237) EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan for three pollutants: photochemical oxidants, sulfur dioxide, and carbon monoxide. Missing from this revised plan were provisions for nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined, although required by 40 CFR 51.16. On June 27, 1977, pursuant to plantiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al. v. Costle* Civil No. 75-1044-WPG). The EPA Administrator responded to this order with an affidavit dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded in accordance with the Court's order, that the plan was not complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised Air Pollution Emergency Plan (State guideline) which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning the recent submittal, stating that EPA intended to approve most of the State guideline for use by the Air Pollution Control Districts in developing episode plans. Subsequently, EPA developed a supplement to the State guideline to correct deficiencies noted in that document (43 FR 60929). The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of 42 Air Pollution Control Districts in the State of California, approving or promulgating regulations as necessary. This proposed rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the Sacramento County APCD's emergency episode plan.

The California Air Resources Board submitted the following rules and regulations to the EPA for the Sacramento County Air Pollution Control District on the following dates:

Rules 120-122 and 125-126, November 4, 1977 and Rules 123-124, July 19, 1974.

Summary of Regulation IX Emergency Episode Control

In general, Regulation IX establishes the procedures which are to be taken by industry, commerce, business, government, and the public to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to public health. For example, whenever it is determined that any episode level specified in Rule 120 is predicted to be attained, is being attained, or has been attained, and is predicted to remain at such levels for 12 or more hours the appropriate emergency episode stage is declared, the appropriate persons are notified, and the abatement actions for that particular stage are implemented. Further, the abatement actions are designed to reduce the pollutant level into the next lower stage or level and to prevent pollutant concentrations from reaching levels which could cause significant harm to public health. To accomplish this, the abatement actions become more stringent as an episode is predicted to progress or progresses from one stage to the next.

EPA's Proposed Approval and No Action on Regulation IX and Proposed Replacement Regulations

EPA evaluated Regulation IX by comparing the regulation to 40 CFR 51.16 which sets forth the minimum requirements for an emergency episode contingency plan. This comparison is presented in an "Evaluation Report and Technical Support Document." Based upon the comparison of Regulation IX to 40 CFR 51.16, EPA proposed to approve those portions of the regulation which meet in part the requirements of 40 CFR 51.16, take no action on part of the revisions, and to propose regulations to fulfill in part the requirements of 40 CFR 51.16. The proposed approval, no action, and replacement regulations are as follows:

Rule 120—Emergency Episode Levels, is proposed to be approved, except for the following:

1. EPA has specified significant harm levels for 1-, 4-, and 8-hour averaging periods for carbon monoxide. Rule 120, however, specifies CO criteria levels for 1- and 12-hours. EPA is therefore proposing 4- and 8-hour carbon monoxide criteria levels to supplement the existing 1-hour level specified in Rule 120 and is taking no action on the 12-hour level. EPA is also proposing that the episode actions that apply to the 1-hour carbon monoxide criteria level in Rule 120 also apply to the 4- and 8-hour criteria levels.

Rule 121—Notification of an Episode Stage, is proposed to be approved, and EPA is proposing the following additional requirements:

1. Regulation IX does not provide for communication procedures for transmitting status reports and orders for emission control actions to be taken during each episode stage. EPA is therefore proposing to ensure that status reports and control actions to be taken during each episode stage are transmitted to public officials; major emission sources; public health, safety, and emergency agencies; and news media, in accordance with 40 CFR 51.16(e)(3).

Rule 122—Episode Control Actions, is proposed to be approved, and EPA is proposing the following additional requirements:

1. Regulation IX does not contain provisions for the inspection of those sources covered under Rule 122 to ascertain compliance with applicable emission control action requirements, as specified in 40 CFR 51.16(e)(2). The emission control actions contained within Rule 122 account for more than 90% of the possible emission reductions of Regulation IX. The reductions of Rule 125, for which there are provisions for source inspections, account for the remaining emission reductions. Regulation IX, therefore, should contain provisions for the inspection of those sources covered under Rule 122 in addition to those sources in Rule 125. EPA is proposing regulations which require such inspections.

Rule 123—Termination of an Episode Stage and Rule 124—Notification of Termination of Episode Stage meet in part the requirements of 40 CFR 51.16 and are therefore proposed to be approved.

Rule 125—Stationary Control Plans, is proposed to be approved, and EPA is proposing the following additional requirements:

1. Rule 125 lacks a time schedule for the Sacramento County Air Pollution Control Officer to initiate the call for the submittal of individual abatement plans.

EPA is proposing regulations which call for the submittal of abatement plans and their review within a specified time limit.

2. Rule 125 does not adequately address one of the largest sources which attract motor vehicle activity and the related emissions. That is, establishments that employ large numbers of people or that operate a large fleet of motor vehicles. EPA is therefore proposing regulations which require the submission of traffic abatement plans from facilities which employ more than 100 persons per shift at one business address or which operate a fleet of 50 or more motor vehicles.

3. The requirements specified in Rule 125 for the content of the abatement plans are not sufficiently specific to ensure that adequate plans will be submitted. EPA is therefore proposing criteria for the content of such plans, in addition to the requirements specified in Rule 125 and in accordance with EPA's Supplement to the State guideline.

Rule 126—Interdistrict Coordination, satisfies in part the requirements of 40 CFR 51.16 and is therefore proposed to be approved.

In addition to the above deficiencies the Sacramento County APCD omitted certain requirements specified by 40 CFR 51.16. The omissions, EPA's rationale, and EPA's proposed regulations to correct those omissions are as follows:

1. Regulation IX contains no provisions for the acquisition of forecasts of atmospheric stagnation conditions and for updates of such forecasts, as required by 40 CFR 51.16(e)(1). EPA is proposing regulations which require the acquisition of such forecasts and updating of such forecasts as often as conditions warrant.

2. A Priority II particulate matter contingency plan is not included in Regulation IX as required by 40 CFR 51.16, with priority classifications set forth in 40 CFR 52.221. EPA intends to correct this deficiency with the Priority II particulate matter contingency plan proposed in this notice.

EPA's proposed substitute regulations are based on the requirements of 40 CFR 51.16, air quality data, emissions data, Regulation IX of Sacramento County, and the evaluation of control strategies contained in Regulation IX. The evaluation of the control strategies is presented in an "Evaluation Report and Technical Support Document." Incorporated into the document is a recently completed report by Pacific Environmental Services, Inc., presenting the results of a study to develop emergency episode abatement strategies for Sacramento County for photochemical oxidants and carbon monoxide episodes.

In proposing substitute regulations, EPA used Regulation IX as a procedural guide to translate the "Evaluation Report and Technical Support Document" into regulations. Thus, the general detail and terminology proposed in this notice are consistent with Regulation IX.

Additional Information

Under Section 110 of the clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments or a request for a public hearing to the Region IX Office. Comments received on or before July 23, 1979, will be considered. Also, comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated May 8, 1979

Sheila M. Prindivilla

Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(viii)(B) and (c)(42)(ii)(B) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(viii) * * *

(B) Rules 123 and 124.

(1) The Sacramento County APCD's Regulation IX, Emergency Episode Control, as submitted on July 19, 1974, except those portions of Rules 123 and 124 that pertain to the 12-hour CO criteria level in regulation IX.

* * * * *

(42) * * *

(ii) * * *

(B) Rules 120, 121, 122, 125, and 126.

(1) The Sacramento County APCD's Regulation IX, Emergency Episode Control, as submitted on November 4, 1977, except those portions of Rules 120, 121, 122, 125, and 126 that pertain to the 12-hour CO criteria level in Regulation IX.

* * * * *

2. Section 52.274 is amended by revising paragraph (a) and adding paragraphs (e), (f), and (g):

§ 52.274 California air pollution emergency plan.

(a) Since the California Air Pollution Emergency Plan does not provide complete, implementable provisions for taking emission control actions necessary to prevent ambient pollutant concentrations from reaching significant harm levels, the requirements of § 51.16 of this Chapter are not met, except in the following areas:

(1) * * *

(2) Sacramento County Air Pollution Control District.

* * * * *

(e) The requirements of § 51.16 of this Chapter are met in the Sacramento County Air Pollution Control District with the following exceptions: there are no episode criteria levels, declaration procedures, notification procedures, source inspections, emission control actions or episode termination procedures for carbon monoxide episodes based on 4- and 8-hour averaging times; communication procedures for transmitting status reports and orders as to emission control actions to be taken during an episode stage are not provided for; there are no provisions for the inspection of those sources covered under Rule 122 there is no time schedule for the Air Pollution Control Officer to initiate the call for the submittal of individual abatement plans; the abatement plan regulation does not adequately address one of the largest sources of emissions, i.e. motor vehicles; the requirements for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted; no provisions exist for the daily acquisition of atmospheric stagnation conditions; a Priority II particulate matter episode contigency plan is not provided for in the regulation.

(f) *Regulation for prevention of air pollution emergency episodes—4- and 8-hour carbon monoxide criteria levels, public announcement, source inspections, preplanned abatement strategies, acquisition of atmospheric stagnation forecasts.*

(1) the requirements of this paragraph are applicable in the Sacramento County Air Pollution Control District.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental

Protection Agency or his authorized representative.

(ii) "ppm" means parts per million by volume.

(iii) "ug^{-3}" means micrograms per cubic meter.

(3) For the purposes of this paragraph, the following episode criteria shall apply:

Pollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Carbon monoxide.	4	25 ppm	45 ppm	60 ppm
	8	15 ppm	30 ppm	40 ppm

(4) The provisions of the Sacramento County Air Pollution Control District's Regulation IX, as submitted on November 4, 1977, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration, notification, source inspections, and termination of such episodes occur.

(5) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental establishments as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaniments in such activity:

(A) Stationary sources which can be expected to emit 100 tons per year or more of hydrocarbons or carbon monoxide.

(ii) The plans required by subparagraph (5)(i)(A) of this paragraph shall include the following information:

(A) The information requested by Regulation IX, Rule 125, Section d as submitted to EPA on November 4, 1977.

(B) The total number of employees at the facility during each shift on a normal weekday.

(C) The amount of energy (gas, fuel oil and electricity) used on a normal weekday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(*1*) The measures to curtail as much as possible, equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes, the equipment operations that emit hydro-carbons.

(*2*) The measures to postpone operations which can be postponed until after the episode.

(F) For third-stage episodes:

(*1*) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in air contaminant emissions.

(*2*) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the air contaminant emissions from such equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Business, commercial, industrial, or governmental establishments employing more than 100 persons per shift at any one business address.

(iv) The plans required by subparagraph (5)(iii) (A and B) of this paragraph shall include the following information:

(A) The information requested in Regulation IX, Rule 125, Section d as submitted to EPA on November 4, 1977.

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(*1*) By the company on company business on a normal weekday.

(*2*) By employees commuting between home to the place of business on a normal weekday.

(*3*) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(v) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(6) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed subparagraph (5) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(7) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons and carbon monoxide greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons and carbon monoxide greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For sources with emissions of hydrocarbons and carbon monoxide less than 91 metric tons (100 tons) per year, or for establishments employing 100 or 200 employees per shift, within 180 days after receipt.

(8) The owner or operator of any industrial, business, governmental, or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator within 30 days after the plan has been evaluated, if the plan is disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(9) A source inspection plan shall be implemented by the Administrator upon the declaration of any episode stage, and the following facilities shall be inspected to ensure compliance:

(i) Those sources covered under rule 122, as submitted to EPA on November 4, 1977, as appropriate.

(10) The Administrator shall insure that forecasts of atmospheric stagnation conditions during any episode stage and updating of such forecasts are acquired.

(11) Any source that violates any requirement of this regulation shall be subject to enforcement action under Section 113 of the Act.

(12) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to:

Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA. 94105.

(g) *Regulation for the prevention of air pollution emergency episodes—Priority II particulate matter emergency episode contingency plan.*

(1) The requirements of this paragraph are applicable in the Sacramento County Air Pollution Control District.

(2) For the purposes of this paragraph the following episode criteria shall apply:

PPollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Particulate matter	24	375 ug/m^{-3}	625 ug/m^{-3}	875 ug/m^{-3}

(3) Whenever it is determined that any episode level specified in subparagraph (2) of this paragraph is predicted to be attained, is being attained, or has been attained and is expected to remain at such levels for 12 or more hours the appropriate episode level shall be declared.

(4) Whenever the available scientific and meteorological data indicate that any episode level declared by subparagraph (2) of this paragraph is no longer being attained and is not predicted to increase again to episode levels, such episode shall be declared terminated.

(5) The following shall be notified whenever an episode is predicted, attained, or terminated:

(i) Public officials.

(ii) Public health, safety, and emergency agencies.

(iii) News media.

* * * * *

[FR Doc. 79-16332 Filed 5-23-79; 8:45 am].

BILLING CODE 6560-01-M

(40 CFR Part 52)

[FRL 1233-5]

Approval and Promulgation of Implementation Plans—Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Connecticut which allows a two year variance to Northeast Utilities Company on behalf of United Technologies Corporation from Regulation 19-508-19(a)(2)(i) concerning fuel sulfur content. This variance would allow up to 5000 hours testing in a Hartford power plant of a jet engine on an Arabian crude oil which would not exceed 2.9% sulfur content by weight.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Copies of the Connecticut submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Branch, EPA, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203; 617/223-4448.

SUPPLEMENTARY INFORMATION: On April 16, 1979 the Connecticut Department of Environmental Protection (The Department) submitted a revision to their State Implementation Plan (SIP) for a two year variance to State Regulation 19-508-19(a)(2)(i) for Northeast Utilities on behalf of United Technologies (UT) for the purchase, storage, and burning of nonconforming fuel. The revision was proposed so that United Technologies Corporation could test an engine on an Arabian crude oil, which is a nonconforming fuel. Although built by UT, the engine is currently owned and operated by Northeast Utilities at their South Meadow Station, Hartford, Connecticut. In accordance with the State variance approval and compliance order, only Unit 11 will be used by UT for testing purposes.

United Technologies has contracted with an Arabian company to supply similar engines for pumping crude oil through a pipeline. When in use, these engines will burn crude drawn from the pipeline, and the testing will help to prove the reliability of the engines while burning this higher sulfur crude oil. The crude to be tested may contain up to 2.9% sulfur. This crude is a cleaner fuel than normal residual oil because the lighter, more volatile and more combustible fractions (i.e. gasoline) are still in the fuel. As a result, the only emission to be increased will be sulfur dioxide.

In August, 1978, United Technologies submitted an application to the Connecticut Department of Environmental Protection for a variance. The final Connecticut variance decision was issued on March 27, 1979 and the State Order, Number 716, was issued on April 3, 1979 requiring compliance with State sulfur regulations by April 1, 1981.

Technical support submitted by the State showed that emissions from this testing program would not result in violation of the SO_2 NAAQS or the SO_2 PSD (Prevention of Significant Deterioration) increment. The company analyzed the maximum air quality impact of the testing by the EPA dispersion model CRSTER.

The results in micrograms per cubic meter were as follows:

	3 hour	24 hour	Annual
Max. Incremental SO_2 Concentration	32.9	8.75	0.54
Class II PSD Increments	512	91	20
Second Highest SO_2 Concentration 1977	296	163	37
Total Air Quality Impact	328.9	171.75	37.54
NAAQS for SO_2	1300	365	80

The State's own maximum impact analysis for the 24 hour period was based on their modification of the EPA dispersion model PTMTP and yielded the following:

	Impact	Background (Hartford)	Total
24 hour SO_2 concentration (ug/m^3)	54	160	214

This modeling indicates that impacts from the engine testing will be well under the standards and allowable increments even though the worst case values are about eight times more conservative than the CRSTER model. Since this is a two year revision, the PSD increment consumption will be restored at the expiration of the revision.

The State order terminates on April 1, 1981, limits sulfur content to 2.9%, and also requires the following: reports on fuel analyses and quantities, a daily log of operation and fuel consumption, testing limits of 2500 hours in a twelve month period and 5000 hours in two years, a maximum firing rate of 1900 gallons/hour, suspension of testing during air pollution advisories, a limit of 20% opacity for emissions, and an emission test for SO_2, NO_x, and particulate.

Based on this information, EPA is proposing to approve the SIP revision as submitted by the State. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A-H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a)

and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: May 18, 1979.

Rebecca W. Hammer,

Acting Regional Administrator, Region I.

[FR Doc. 79-16329 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1234-6]

Approval and Promulgation of Implementation Plans; Implementation Plan Revisions for Certain Nonattainment Areas Tennessee

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of Availability.

SUMMARY: EPA announces today that a portion of the Tennessee implementation plan revisions due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The pulic is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the Federal Register later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Tennessee submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

In addition, the Tennessee revisions may be examined at the office of the Tennesseee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA's Region IV Air Programs Branch. Mr. Lee may be reached by telephone at 404/881-2864 (FTS-257-2864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated a number of areas in Tennessee as nonattainment (43 FR 8962). Tennessee has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that plan revisions have been formally submitted for the following areas and are available for public inspection:

Sulfur Dioxide—Copperhill.

Carbon Monoxide—Knox County, Shelby County.

Particulates—Jacksboro, Bristol, Lafollette, Odoms Bend, Bull Run.

Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act [42 U.S.C. 7410 and 7502])

Dated: May 15, 1979

John A., Little,

Acting Regional Administrator, Region IV.

[FR Doc. 79-16328 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1233-3]

Availability of Implementation Plan Revision for State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Advance Notice of Proposed Rulemaking.

SUMMARY: EPA announces today that the State of Washington Implementation Plan revision due for submittal by January 1, 1979 under the Clean Air Act Amendments of 1977 has been received and is available for public inspection. The public is invited to submit written comments to the record which will be held open for the receipt of public comments for a minimum period of thirty (30) days. A notice of proposed rulemaking describing the Plan and the action that EPA intends to take regarding the proposed revisions will be published in the Federal Register after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due on or before June 25, 1979.

ADDRESSES: The Washington submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Washington, Department of Ecology, Central Regional Office, 2802 Main Street, Union Gap, WA 98903.

State of Washington, Department of Ecology, St. Martin College, Lacey, Washington 98504.

State of Washington, Department of Ecology, Eastern Regional Office, East 103 Indiana Avenue, Spokane, WA 99201.

State of Washington, Department of Ecology, Redmond Regional Office, 4350-150 Avenue NE., Redmond, Washington 98502.

COMMENTS SHOULD BE ADDRESSED TO: Clark L. Gaulding, Chief, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 625, Environmental Protection Agency, telephone No. (206) 442-1226, (FTS 399-1226).

SUPPLEMENTAL INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that States submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment. On March 3, 1978 (43 FR 8962) and September 11, 1978 (43 FR 40412) EPA designated certain areas in Washington as non-attainment. Subsequently, on April 4, 1979 EPA published in the Federal Register the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Non-attainment Areas (44 FR 20372). The General Preamble is hereby incorporated into this Advance Notice of Proposed Rulemaking.

The State has responded by preparing implementation plan revisions as required by the Act for the non-attainment designation referred to above. The purpose of this notice is to call the public's attention to the fact that this revision has been formally submitted to EPA and is available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the

proposed revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA on April 4, 1979 (44 FR 20372) which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of the Washington revision will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

(Authority: Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 79-16327 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1234-7]

Approval and Promulgation of Implementation Plans; Revisions to the Rules and Regulations of the Bay Area Air Quality Management District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Bay Area Air Quality Management District (Bay Area AQMD) has adopted changes to rules concerning air pollution emergency episodes. The intended effect of these rules is to provide an emergency episode plan in accordance with 40 CFR 51.16 that will prevent air pollution concentrations from reaching levels which could cause significant harm to the public health. These rules have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The EPA proposes to approve part of the SIP revision, to take no action on part of the revision, and to propose regulations to correct deficiencies in the plan. EPA invites written public comment concerning this proposed rulemaking. Those persons wishing to request a public hearing may do so by writing EPA at the address listed below.

DATES: Comments or requests for a public hearing may be submitted on or before July 23, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

The EPA has established a rulemaking Docket, 9A-79-2 containing all information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX office at the above address and at the EPA Central Docket Section at the following address: EPA Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, SW., Washington, D.C. 20460.

Additionally, copies of Regulation 5 and EPA's Evaluation Report and Technical Support Document are available for public inspection during normal business hours at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: Charlotte Hopper (A-4-3), 215 Fremont Street, San Francisco, CA 94105, (415) 556-2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act requires that a SIP contain air pollution emergency episode plans, and 40 CFR 51.16 "Prevention of Air Pollution Emergency Episodes," specifies the minimum requirements for the content of these plans, including provisions for taking any emission control actions necessary to prevent ambient pollution concentrations from reaching levels which could cause significant harm to the health of persons. The original SIP submitted by the State of California (for all APCDs in California) on February 21, 1972 failed to meet the requirements specified in 40 CFR 51.16. Therefore, on May 31, 1972 (37 FR 10851) EPA disapproved the emergency plan portion of the California SIP. In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on February 6, 1974. EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the ARB requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al.* v. *Train*, Civil No. 75-1044-WPG). According to an agreed upon schedule, EPA and the ARB worked together towards Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237) EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan for three pollutants: photochemical oxidants, sulfur dioxide, and carbon monoxide. Missing from this revised plan were provisions for nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined, although required by 40 CFR 51.16. On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al.* v. *Costle*, Civil No. 75-1044-WPG). The EPA Administrator responded to this order with an affidavit dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded, in accordance with the Court's order, that the plan was not fully complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised Air Pollution Emergency Plan (State guideline) which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning the recent submittal, stating that EPA intended to approve most of the State guideline for use by the Air Pollution Control Districts in developing episode plans. Subsequently, EPA developed a supplement to the State guideline to correct deficiencies noted in that document (43 FR 60929). The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things, this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of 42

Air Pollution Control Districts in the State of California, approving or promulgating regulations as necessary. This Notice of Proposed Rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the Bay Area AQMD emergency episode plan.

Regulation 5, Air Pollution Episode Plan, was adopted on March 21, 1974 by the Bay Area AQMD, and submitted to EPA on July 19, 1974. Subsequent revisions to Regulation 5 have been adopted and submitted to EPA on November 3, 1975 and November 4, 1977.

Summary of Regulation 5, Air Pollution Episode Plan

In general, Regulation 5 sets forth actions to be taken by industry, business, commerce, government, and the public to prevent air pollution concentrations from reaching levels which could cause significant harm to the public health.

These actions include monitoring of air quality; development and processing of emission reduction plans prepared by certain large industrial, business, commercial, and governmental establishments; certain public notifications of episode conditions; and implementation of emission reduction strategies.

Actions required by Regulation 5 are divided into three stages, depending on the severity of the existing air quality. At each stage curtailment of stationary source and vehicular emissions are included to some degree. At the most severe stage, Air Pollution Emergency, Regulation 5 requires that all recreational and non-emergency commercial and industrial facilities be closed.

EPA'S Proposed Approval and No Action on Regulation 5 and Proposed Replacement Regulations

EPA evaluated Regulation 5 by comparing the regulation to 40 CFR 51.16 which sets forth the minimum requirements for an emergency episode contingency plan. This comparison is presented in an "Evaluation Report and Technical Support Document." Based upon the comparison of Regulation 5 to 40 CFR 51.16, EPA proposes to approve those portions of the revision which meet in part the requirements of 40 CFR 51.16, take no action on part of the revision, and to propose regulations to fulfill in part the requirements of 40 CFR 51.16. The proposed approval, no action, and replacement regulations are as follows:

Section 5.1 Purpose, is proposed to be approved, except for the following:

1. Section 5.1, Table 2 of Regulation 5 specifies 1- and 12-hour average carbon monoxide (CO) episode criteria. EPA has specified significant harm levels for 1-, 4-, and 8-hour averaging periods for CO. The 1-hour CO criteria in Regulation 5 is consistent with the EPA requirements, but the regulation does not include 4- and 8-hour criteria. EPA is proposing to take no action on the 12-hour CO criteria level and is proposing to augment Regulation 5 with 4- and 8-hour CO episode criteria consistent with those suggested in 40 CFR Part 51, Appendix L. EPA is also proposing that the episode actions which apply to the 1-hour criteria level in Table 2 also apply to the 4- and 8-hour criteria levels.

Section 5.21 Smog Advisory, Section 5.22 Air Pollution Alert, Section 5.23 Air Pollution Warning, and Section 5.24 Air Pollution Emergency, are proposed to be approved and EPA is proposing the following additional requirements:

1. Regulation 5 requires that a "smog advisory" be issued to persons with respiratory or cardiac problems when the concentrations of pollutants reach, or are predicted to reach, episode criteria levels for any part of the Bay Area. Notifications are to be made to appropriate officials in the specified area so that those persons affected may take suitable action. This does not meet the EPA requirements for public announcement whenever an episode stage has been determined to exist. The Bay Area AQMD regulation requires only notification of persons with respiratory or cardiac problems, not the general public. EPA proposes to correct this by providing for general public notification.

Section 5.3 Preplanned Abatement Strategies is proposed to be approved and EPA is proposing the following additonal requirements:

1. Section 5.3 of Regulation 5 requires the submission of traffic abatement plans and stationary source curtailment plans from any source emitting 100 tons per year of any contaminant from any facility. Mobile sources account for 46.0% of non-methane Hydrocarbon emissions, 57.0% of nitrogen oxides emissions, both of which are precursors to the formation of photochemical oxidant, and 86.7% of carbon monoxide emissions. Control of the automobile is therefore necessary to ensure abatement of an episode declared for oxidant or carbon monoxide. Regulation 5 does not adequately address one of the largest sources which attract motor vehicle activity and the related emissions, i.e., those establishments which have large numbers of employees or which operate large numbers of fleet vehicles. EPA is thus proposing regulations which require the submission of traffic abatement plans from facilities which operate 50 or more fleet vehicles, or which employ more than 100 persons per shift at one business address.

2. The requirements specified in Section 5.3 for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted. EPA is therefore proposing criteria for the content of both traffic abatement plans and stationary source curtailment plans, following the guidelines of the California Air Pollution Emergency Plan "Criteria for Approval of Abatement Plans" (State guideline, March 24, 1977) and EPA's Supplement to the State guideline (43 FR 60929).

3. Section 5.3 does not include a requirement for the submittal of individual source abatement plans by a specific date, nor does it include a time limit for the approval or disapproval of plans. EPA proposes that plans be submitted within 60 days of the effective date of the regulation and allows 180 days for the reveiw and approval or disapproval of such plans.

Section 5.4 Termination of Episode Stages satisfies in part the requirements of 40 CFR 51.16 and is therefore proposed to be approved.

In addition to the above deficiencies, the Bay Area AQMD omitted certain requirements specified by 40 CFR 51.16. The omissions, EPA's rationale, and EPA's proposed regulations to correct those omissions are as follows:

1. Regulation 5 contains no provisions for the acquisition of forecasts of atmospheric stagnation conditions and for updates of such forecasts, as required by 40 CFR 51.16(e)(1). The EPA proposed regulations provide for the acquisition of such forecasts and updating of such forecasts as often as conditions warrant.

2. Regulation 5 contains no provisions for inspection of sources to ascertain compliance with applicable emission control action requirements, as specified in 40 CFR 51.16(e)(2). The proposed EPA regulations provide for such inspections.

3. Regulation 5 does not provide for communication procedures for transmitting status reports and orders as to emissions control actions to be taken during an episode stage, including procedures for contact with public officials, major emission sources, public health, safety, and emergency agencies and news media. EPA is ensuring that public notification is made whenever an episode stage has been determined to exist. EPA is also ensuring that status

reports and control actions to be taken during an episode stage are transmitted to public officials, major emission sources, public health, safety, and emergency agencies, and the news media, in accordance with 40 CFR 51.16(e)(3).

5. Particulate matter is not included in Regulation 5. The San Francisco Bay Area Air Basin has been classified as a Priority II area for particulate matter (40 CFR 52.221). As such, the emergency episode plan for the Bay Area AQMD must set forth two or more stages of episode criteria and provide for public announcement whenever any episode stage has been determined to exist, in accordance with 40 CFR 51.16(b)(1), (b)(2) and (g). EPA intends to correct these deficiencies with this proposal.

Additionally, those parts of Regulation 5 pertaining to episode criteria and abatement actions for oxidant in combination with sulfur dioxide, and sulfate in combination with oxidant, have not been reviewed and are not proposed for inclusion in the SIP, since EPA has not defined significant harm levels for these combinations of pollutants.

Amendments to 40 CFR 51.16 were published on March 20, 1979 in the Federal Register (44 FR 16911). Under these amendments, the Administrator may exempt attainment or unclassifiable areas from the requirements for future emergency episode plan development.

The Bay Area AQMD has jurisdiction over sources in the San Francisco Bay Area Air Basin, which was designated by EPA as attainment for sulfur dioxide (SO_2) on March 3, 1978 (43 FR 8962). As such, the Administrator has exempted the Bay Area AQMD for SO_2 from episode plan requirements.

EPA's proposed substitute regulations are based on the requirements of 40 CFR 51.16, air quality data, emissions data, Regulation 5, and the evaluation of control strategies contained in Regulation 5. The evaluation of these control strategies is presented in an "Evaluation Report and Technical Support Document." Incorporated into the document is a recently completed report by Pacific Environmental Services, Inc., presenting the results of a study to develop emergency episode abatement strategies for the Bay Area AQMD.

In proposing substitute regulations, EPA used Regulation 5 as a procedural guide to translate the "Evaluation Report and Technical Support Document" into regulations. Thus, the general detail and terminology proposed in this notice is consistent with Regulation 5.

Additional Information

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Those persons wishing to request a public hearing may do so by writing the EPA Region IX Office. Comments received on or before July 23, 1979, will be considered. Comments received will be available for public inspection at the EPA Region IX office and the EPA Central Docket Section.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: May 9, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

Proposed Regulations

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(ii)(B), (c)(29)(iv)(B), and (c)(42)(xxii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(ii) * * *

(B) Sections 5.1 and 5.4, except those portions that pertain to sulfur dioxide, oxidant in combination with sulfur dioxide, sulfate in combination with oxidant, and the 12-hour CO criteria level.

* * * * *

(29) * * *

(iv) * * *

(B) Section 5.21, except those portions that pertain to sulfur dioxide, oxidant in combination with sulfur dioxide, sulfate in combination with oxidant, and the 12-hour CO criteria level.

* * * * *

(42) * * *

(xxii) Bay Area APCD.

(A) Regulation 5.

(1) Sections 5.22, 5.23, 5.24, and 5.3, except those portions that pertain to sulfur dioxide, oxidant in combination with sulfur dioxide, sulfate in combination with oxidant, and the 12-hour CO criteria level.

* * * * *

2. Section 52.274 is amended by revising paragraph (a) and adding paragraphs (j), (k), and (l):

§ 52.274 California air pollution emergency plan.

(a) Since the California Air Pollution Emergency Plan does not provide complete, implementable provisons for taking emission control actions necessary to prevent ambient pollutant concentrations from reaching significant harm levels, the requirements of § 51.16 of this chapter are not met, except in the following areas:

(1) * * *

(2) * * *

(3) * * *

(4) Bay Area Air Quality Management District.

* * * * *

(j) The requirements of § 51.16 of this chapter are met in the Bay Area Air Quality Management District with the following exceptions: there are no episode criteria levels, declaration procedures, notification procedures, source inspections, emission control actions, or episode termination procedures for carbon monoxide episodes based on 4-hour and 8-hour averaging times; adequate provisions do not exist for public notification of episodes; adequate guidelines are not provided to ensure that adequate abatement plans are submitted; one of the largest sources of emissions is not adequately addressed, i.e., motor vehicles; there is no time schedule for the submittal of individual source abatement plans; no provisions exist for the daily acquisition of atomospheric stagnation conditions; no provisions exist for the inspection of sources during episodes to ascertain compliance with emission control action requirements; and not communication procedures exist for transmitting status reports and orders as to emissions control actions to be taken during an episode stage.

(k) *Regulation for prevention of air pollution emergency episodes—episode criteria levels, public announcement, preplanned abatement strategies, forecasts of atmospheric stagnation conditions, and source inspection.*

(1) The requirements of this paragraph are applicable in the Bay Area Air Quality Management District.

(2) For the purposes of this regulation, the following episode criteria shall apply to carbon monoxide episodes:

Contaminant	Averaging time (hours)	Alert	Warning	Emergency
Carbon monoxide.	4	25 ppm	45 ppm	60 ppm
	8	15 ppm	30 ppm	40 ppm

(3) The provisions of the Bay Area Air Quality Management Districts Regulation 5, as submitted on November 3, 1975, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of the episodes occur.

(4) The following shall be notified whenever an episode is predicted, attained, or terminated:

(i) Public officials.

(ii) Persons operating any facility or activity named in subparagraph (i)(6) of this paragraph.

(iii) Public health, safety, and emergency agencies.

(iv) News media.

(5) The Administrator shall provide for daily acquisition of forecasts of atmospheric stagnation conditions during any episode stage and updating of such forecasts as frequently as they are issued by the National Weather Service.

(6) Stationary source curtailment plans and traffic abatement plans shall be prepared by industrial, business, commercial, and governmental establishments as follows:

(i) The owner or operator of any facility or plant emitting 91 metric tons (100 tons) or more per year of carbon monoxide or hydrocarbons shall submit to the Administrator a plan to curtail or cease operations causing such stationary source air contaminants.

(ii) The plans required by subparagraph (i)(6)(i) of this paragraph shall include the following:

(A) All information required in the California Air Resources Board Executive Order G-63, "Criteria for Approval of Air Pollution Emergency Abatement Plans" (January 23, 1976).

(B) The total number of employees at the facility during each shift on a normal weekday and on a Sunday.

(C) For Air Pollution Alerts, the measures to voluntarily curtail equipment emitting air pollutants.

(D) For Air Pollution Warnings:

(*1*) A list of equipment and the permit numbers of such equipment, not operated on a Sunday and an estimate of the resultant reduction in air contaminant emissions.

(*2*) A statement as to whether or not the facility operates on a Sunday.

(E) For Air Pollution Emergencies:

(*1*) A list of all equipment, with permit numbers, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in air contaminant emissions.

(*2*) A list of all equipment, with permit numbers, which must be operated to protect the public health or safety, and an estimate of the air contaminant emissions from such equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Industrial, business, commercial, or governmental establishments employing more than 100 persons per shift at one business address.

(iv) The plans required by subparagraph (6)(iii) of this paragraph shall contain the following:

(A) All information required in California Air Resources Board Executive Order G-63, "Criteria for Approval of Air Pollution Emergency Abatement Plans" (January 23, 1976).

(B) The total number of employees at the facility during each shift on a normal weekday and on a Sunday.

(C) The number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(*1*) By the company, on company business, on a normal weekday and on a Sunday.

(*2*) By employees commuting between home and the place of business on a normal weekday and on a Sunday.

(D) The number of parking spaces:

(*1*) Available.

(*2*) Normally used on a weekday.

(*3*) Normally used on a Sunday.

(E) The minimum number of motor vehicles to be operated that are necessary to protect the public health or safety.

(v) Each owner or operator required to submit a plan by this paragraph shall submit such plan within sixty days after promulgation of final rulemaking.

(vi) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this subparagraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(vii) The plans submitted in accordance with the provisions of this paragraph shall be approved or disapproved by the Administrator according to the following schedule:

(A) For sources with emissions of air contaminants greater than 454 metric tons (500 tons) per year, or for establishments employing more than 400 employees per shift, within 45 days after receipt.

(B) For sources with emissions of air contaminants greater than 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(C) For sources with emissions of air contaminants less than 91 metric tons (100 tons) for year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(viii) The owner or operator required to submit a plan by this paragraph shall be notified within thirty days after the Administrator's decision if the plan is disapproved.

(ix) Any plan disapproved by the Administrator shall be modified to overcome this disapproval and resubmitted to the Administrator within thirty days of the notice of disapproval.

(7) The Administrator shall insure that a source inspection plan is implemented upon the declaration of any episode stage.

(8) Any source that violates any requirements of this regulation shall be subject to enforcement action under Section 113 of the Act.

(9) All submittals or notifications required to be submitted to the Administrator shall be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

(1) *Regulation for prevention of air pollution emergency episodes—Priority II particulate matter contingency plan.*

(1) The requirements of this paragraph are applicable in the Bay Area Air Quality Management District.

(2) For the purposes of this regulation, the following episode criteria shall apply:

Contaminant	Averaging time (hours)	Alert	Warning	Emergency
Particulate matter	24	375 mg/m³	625 mg/m³	875 mg/m³

(3) Whenever it is determined that any episode level specified in subparagraph (2) of this paragraph is predicted to be attained, is being attained or has been attained, and is predicted to remain at such level for 12

or more hours, or increase, unless control actions are taken, the existence of the appropriate episode level and the location of the source-receptor areas shall be declared by the Administrator.

(4) Whenever the available scientific and meteorological data indicate that any episode level declared by subparagraph (2) of this paragraph is no longer occurring and is not predicted to immediately increase again to episode levels, such episode shall be declared terminated.

(5) The following shall be notified by the Administrator whenever an episode is predicted, attained or terminated:

(i) Public officials.

(ii) Public health, safety, and emergency agencies.

(iii) News media.

* * * * *

[FR Doc. 79-16330 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21310; RM-1847, RM-1984, and RM-2742]

FM Quadraphonic Broadcasting; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving FM quadraphonic broadcasting at the request of National Research Development Corporation. Petitioner states the additional time is needed so that it can complete the preparation of comments for submission to the Commission.

DATES: Comments must be filed on or before June 11, 1979, and reply comments must be filed on or before July 11, 1979.

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

FOR FURTHER INFORMATION CONTACT: Wilson LaFollette, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the Matter of FM Quadraphonic Broadcasting.

Adopted: May 16, 1979.

Released: May 17, 1979.

By the Chief, Broadcast Bureau: 1. In a *Further Notice of Inquiry* in the above-captioned proceeding, 44 Fed. Reg. 3732, April 16 and May 16, 1979, were set as the dates for filing comments and reply comments, respectively. On April 10, 1979, an extension was granted for the filing of comments and reply comments to May 16 and June 18, 1979, respectively.

2. The Commission now has before it a request filed by counsel for National Research Development Corporation ("NRDC") seeking an extension for filing comments to and including June 25, 1979. Counsel states that NRDC has been in the process of developing detailed comments. Most of the engineering support material must come from its headquarters in London. Because of British postal labor problems, however, transmission of this necessary material has been seriously delayed. Counsel further asserts that NRDC will demonstrate the effect of multiplex decoder phase error on the quardrature signal, and believes it unlikely that any other parties will provide this information to the Commission. Counsel states that if the Commission cannot extend the time through June 25, 1979, then an extension through June 11, 1979, could make possible a full presentation by NRDC.

3. In the *Notice* the Commission expressed its anxiety to resolve this proceeding in an expeditious manner. Nevertheless, it is important that the Commission have the benefit of any information which might be helpful in reaching a decision in this matter. Here, NRDC, for reasons clearly beyond its control, has been unable to acquire information critical to an informed decision in this proceeding. Under these circumstances, an extension of time for filing comments will be granted to and including June 11, 1979. The reply comment date will be extended to July 11, 1979. It should be emphasized, however, that this action is not taken lightly and we do not contemplate granting any further requests for additional time for filing of comments or reply comments.

4. Accordingly, it is ordered, that the above motion for extension of time filed by National Research Development Corporation IS GRANTED to the extent that the dates for filing comments and reply comments ARE EXTENDED to and including June 11, and July 11, 1979, respectively, and IS DENIED in all other respects.

5. This action is taken pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16209 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-120; RM-3197]

FM Broadcast Station in Haskell, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class C channel to Haskell, Texas. Petitioner, Kenneth Lane, states the proposed channel assignment could be used to bring a first local aural broadcast service to Haskell and surrounding sparsely populated areas.

DATES: Comments must be filed on or before July 16, 1979, and reply comments on or before August 6, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 15, 1979.

Released: May 22, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Haskell, Texas), BC Docket No. 79-120, RM-3197.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Kenneth Lane ("petitioner") proposing the assignment of Class C FM Channel 238 to Haskell, Texas.

(b) Channel 238 can be assigned to Haskell in conformity with the minimum distance separation requirements.

(c) Petitioner states that he will promptly apply for the channel, if assigned.

2. *Community Data.*—(a) *Location.* Haskell, seat of Haskell County, is located approzimately 80 kilometers (50 miles) north of Abilene, Texas.

(b) *Population.* Haskell—3,655; Haskell County—8,512.[2]

(c) *Local Aural Broadcast Service.* There is no local aural broadcast service in Haskell.

3. *Economic Considerations.* Petitioner states that Haskell is located

[1] Public Notice of the petition was given on September 5, 1978. Report No. 1138.

[2] Population figures are taken from the 1970 U.S. Census.

in the center of Haskell County and serves as the trade center for the Rolling Plains area of the state. He adds that Haskell has one of the largest livestock auctions in the area which regularly brings hundreds of people together in extensive commercial exchange. According to the 1977 Community Audit compiled by West Texas Utilities, Haskell's population is estimated at 4,050. Sufficient demographic data has been submitted by petitioner to demonstrate the need for a first FM assignment to that community.

4. *Additional Considerations:* Petitioner states that due to the size of Haskell County, a Class C FM station is required to put out a signal strong enough to cover the county area. He notes that because the population of the area is so decentralized only a Class C station could provide effective service.

5. *Preclusion Study:* Preclusion would occur on Channels 237, 238, 239 and 240A as a result of the proposed assignment. Nine [3] communities of greater than 3,000 population, which have no FM assignments or AM stations, are located in the precluded area. A staff study shows that at least one or more channels are available for the precluded areas.

6. In this case, where a community has a population of 3,655, it would be the usual practice to assign a Class A channel. However, the petitioner requested a Class C channel. Such an exception has been made where the Class C proposal could bring a significant amount of first or second FM service or when a Class C channel represents the best means of serving a sparsely populated area. In his *Roanoke Rapids* study, petitioner shows that a first FM service could be provided to 16,908 persons in a 6,364 square kilometer (2,457 square miles) area and a second FM service to 4,700 people in a 1,303 square kilometer (503 square miles) area. No first or second nighttime aural service would be provided.

7. Comments are invited on the following proposal to amend the FM Table of Assignments with regard to the community of Haskell, Texas:

City	Channel No.	
	Present	Proposed
Haskell, Texas		238

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 16, 1979, and reply comments on or before August 6, 1979.

10. For further information concerning the proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspecton of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-16264 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No.79-121; RM-3284]

TV Broadcast Stations in McAllen and Brownsville, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to exchange TV Channels 23 and 48, assigned to Brownsville and McAllen,

[3] *Oklahoma:* Hollis (pop. 3,150); *Texas:* Electra (3,895), Burkburnett (9,230), Iowa Park (5,796), Olney (3,624), Anson (3,779), Hamlin (3,325), Ranger (3,094) and Cisco (4,160).

Texas, respectively. Petitioner, Tesoro Broadcasting Company, which has a construction permit to build a new station on Channel 48, McAllen, believes that it can give better service through using Channel 23.

DATES: Comments must be filed on or before July 16, 1979, and reply comments on or before August 6, 1979.

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

FOR FURTHER INFORMATION CONTACT: Carol P. Foelak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1979.

Released: May 23, 1979.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. [McAllen and Brownsville, Texas], BC Docket No. 79-121, RM-3284.

1. We have before us a petition [1] for rule making and modification of construction permit filed by Tesoro Broadcasting Company. It proposes exchanging UHF television Channels 23 and 48, assigned to Brownsville and McAllen, Texas, respectively, and requests that its construction permit for Channel 48 at McAllen be modified to specify Channel 23. The only comments were in the form of a letter filed April 26, 1979, by petitioner asking for expedited processing because it is a minority applicant.

2. McAllen (pop. 37,636; Hidalgo County, pop. 181,535) is located in southern Texas, approximately 85 kilometers (53 miles) west of Brownsville. Channel 48 (CP for Station KVEO-TV held by petitioner) is the only television channel currently assigned to McAllen. Brownsville (pop. 52,522), seat of Cameron County (pop. 140,368), is located at the extreme southern tip of Texas. Channel 23 is the only television channel currently assigned to Brownsville and it is unoccupied and unapplied for.

3. Petitioner's reason for requesting the change is its desire for the lowest possible channel. It notes that Channel 23, Brownsville, is currently unoccupied and not applied for and says that a Channel 23 transmitter could be located at its presently specified site without requiring waiver of mileage separations. In fact, it notes that the Commission had issued a construction permit for Channel 23, Brownsville, at this site in 1974 (although the station was never built). It says that from this site it will deliver a city grade signal to Brownsville as well as McAllen.[2] It views this as being important to the station's ability to serve this hyphenated market.

4. Ordinarily, assignments are not changed on the basis of the preference of the permittee for a lower channel. In this case, however, there are public interest benefits to be gained from this proposal. As matters now stand, the station has been granted a waiver for use of a short spaced site. The change in channels would end the need for a site at less than required spacing.

5. Another important consideration is the restriction that was placed on the noncommercial educational Channel *44, Harlingen, Texas, assignment by the granting of petitioner's construction permit on Channel 48. Under this restriction, Channel *44 cannot be situated near the center of the Brownsville-McAllen-Harlingen-Weslaco area. This apparently led the Texas Consumer Education and Communications Development Committee, Inc. to file an application for the noncommercial educational use of Channel 60 to serve Harlingen from petitioner's Channel 48 site even though Channel *44 is assigned to Harlingen, and reserved for noncommercial educational use. Construction of the Channel 60 station has been authorized by the Commission. The substitution would permit the educational station to seek the use of Channel 44, if it prefers, at a site now precluded by the Channel 48 authorization.

6. Petitioner has also requested that its construction permit be modified to specify Channel 23 at the same time that we assign Channel 23 to McAllen. We would take both actions at the same time, unless during this proceeding another party unequivocally states that it will file an application for a construction permit for Channel 23. *San Francisco and San Mateo, California*, FCC 77-837, released December 19, 1977. In that event, we would not be able to modify petitioner's construction permit, and it would have to compete with that other party for Channel 23.

7. Although there is not a significant technical difference between Channel 23 and Channel 48, in light of the possibility of eliminating a short-spacing which had required a waiver of our rules, and in the absence of a current expression of interest in the use of Channel 23 to serve Brownsville, we will propose to amend the TV Table of Assignments (§ 73.606(b) of the Rules) as follows:

City	Channel No.	
	Present	Proposed
Brownsville, Texas	23	48
McAllen, Texas	48	23

8. Mexican concurrence with the proposal will have to be obtained, since the communities are located within 320 kilometers (199 miles) of the Mexican border.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before July 16, 1979, and reply comments must be filed on or before August 6, 1979.

11. For further information concerning this proceeding, contact Carol P. Foelak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606 (b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its

[1] Public Notice of the petition was given on January 3, 1979, Report No. 1157.

[2] This site meets the applicable spacing requirements which necessitate use of a site at least 27 km (17 miles) east of McAllen.

present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in ths Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and repy comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washngton, D.C.

[FR Doc. 79-16266 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 78]

[CT Docket No. 79-116; FCC 79-293]

Adoption of a Short Form Renewal Application for Authorizations in the Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: NPRM to adopt a short form renewal application for authorizations in the Cable Television Relay Service. This action is part of an effort to streamline Commission procedures and to eliminate unnecessary paper work for applicants.

DATES: (Comments must be received on or before June 25, 1979, and Reply Comments must be received on or before July 5, 1979.

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

FOR FURTHER INFORMATION CONTACT: Stephen T. Yelverton, Chief, Microwave Branch, Cable Television Bureau, (202) 254-3420.

Adopted: May 10, 1979.

Released: May 17, 1979.

In the matter of adoption of a short form renewal application for authorizations in the Cable Television Relay Service, CT Docket No. 79-116.

1. Notice is hereby given of proposed rulemaking in the above-captioned matter.

2. Applicants seeking renewal of license authorizations in the Cable Television Relay Service are now required to file FCC Form 327 giving complete information on the microwave facility even if no engineering or legal changes have been made in the station operation since the last license filing. As a result of experience gained in processing CARS renewal applications in past years and in response to informal suggestions from various interested parties that the filing of a long form renewal application is an unnecessary burden where no changes have been made in the facilities since the last license application, we are initiating this rulemaking to consider adoption of a short form renewal application. Since we anticipate the filing of some 800 license renewal applications starting in 1980, of which many will indicate no engineering or legal changes, we believe that adoption of a short form renewal will save the Commission staff a significant amount of processing time and will ease the regulatory burden on the cable television industry and its subscribers. However, we note that where any engineering or legal changes have been made in a station operation, the long form renewal would still be required, but only to the extent necessary to indicate such changes.

3. A proposed short form renewal application encompassing the necessary information to be filed is appended to this Notice. We seek comment on the proposal for a short form and on the desirability of the form we have proposed, particularly in terms of clarity of the questions, instructions, format, and answering space. The forms requirement included herein is subject to General Accounting Office clearance.

4. Authority for the proposed rulemaking instituted herein is contained in Sections 4(i) and (j), 303(r) and 403 of the Communications Act of 1934, as amended.

5. All interested parties are invited to file written comments on the proposed short form renewal on or before June 25, 1979, and reply comments on or before July 5, 1979. In view of the time constraints within which the Commission is working, and because the information the proposed short form seeks is less than that now received, extensions of time are not contemplated. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

6. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and five copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

"Proposed Form - Sample"

INSTRUCTIONS

TYPE OR NEATLY PRINT

1. This form may be used in applying for renewal of Cable Television Relay Station licenses ONLY when there have been NO engineering or legal changes in the information shown on the previously filed license application.

   CAUTION: FAILURE TO REPORT ENGINEERING OR LEGAL CHANGES IN THE STATION OPERATION, AS REQUIRED BY COMMISSION RULES, MAY RESULT IN THE IMPOSITION OF A MONETARY FORFEITURE OR ADMINISTRATIVE SANCTIONS.

2. In Item 2, insert the licensee's current mailing address.

3. This application shall be personally signed by the applicant if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; by a member who is an officer, if the applicant is an unincorporated association; by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction, if the applicant is an eligible government entity; or by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall, in the event he signs for the applicant separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

4. Complete all applicable items in the three sections of this form (on the other side).

5. Mail to Federal Communications Commission, Washington, D. C. 20554.

6. A separate FCC Form must be filed for EACH station authorization being renewed.

7. If the application is received by the Commission before expiration of the license, the licensee may continue operations until notified by the Commission of action on his application. Upon expiration, he must post with the license a statement certifying that he has mailed or filed a renewal application, before expiration, specifying the date of mailing or filing.

8. Do not attach or enclose current license with this form.

9. COMPLETE MAILING ADDRESS ON CARD BELOW.

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
FEDERAL COMMUNICATIONS COMMISSION

[redacted]

[redacted]

[redacted] State _____ ZIP Code _____

"Proposed Form - Sample"

United States of America
Federal Communications Commission
APPLICATION FOR RENEWAL OF CABLE TELEVISION RELAY
SERVICE LICENSE (SHORT FORM)

(USE ONLY IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE SIDE)

1. Name of licensee

2. Mailing address (number, street, city, state and ZIP Code)

3. Station location and coordinates:

N.Lat. ° ' " W. Long. ° ' "

4. (a) Call Sign:

(b) Microwave Group & Channels:

(c) Transmitter Mfr(s) and Type Number(s):

(d) Antenna Input Power(s): dbm

(e) Number of Receive Sites:

5. This form may be used ONLY when there have been NO engineering or legal changes in the license application previously filed. If changes are to be made, or unreported changes have been made, FCC Form 327 MUST be used.

6. Applicant waives any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests renewal of station license in accordance with this application.

The statements in this application are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

Signature
(See Instruction 3)

Title

Date

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.

FCC Form

NOTICE OF RENEWAL OF CABLE TELEVISION
RELAY SERVICE LICENSE
FCC RECORD COPY - FIELD

1. Name of licensee

2. Mailing address (Number, Street, City, State, and ZIP Code)

3. Station location and coordinates:

4. Call Sign:

THIS SPACE FOR COMMISSION USE ONLY

The license for the reference radio station has been renewed on the same conditions and in accordance with the same provisions for the term ending:

Date Granted

FCC Form

United States of America
Federal Communications Commission
CERTIFICATE OF RENEWAL OF CABLE TELEVISION RELAY SERVICE LICENSE

1. Name of licensee

2. Mailing address (Number, Street, City, State, and ZIP Code)

3. Station location and coordinates:

4. Call Sign:

NOT VALID UNLESS POSTED WITH LICENSE

THIS SPACE FOR COMMISSION USE ONLY

This authorization shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term hereof, nor in any other manner than authorized therein. Neither the license nor the right granted herein shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. This authorization is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934, as amended.

This certificate, when properly authenticated, serves as a renewal of the reference radio station license on the same conditions and in accordance with the same provisions for the term ending:

Federal Communications Commission

Date: Secretary

[FR Doc. 79-16260 Filed 5-23-79; 8:45 am]
BILLING CODE 6712-01-C

[47 CFR Part 83]

[PR Docket No. 79-101; FCC 79-260]

Availability of Certain Compulsory Radio Equipment to the Operator of the Vessel's Steering Station in Use, and Operator be a Qualified Radio Operator; Requirement

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making.

SUMMARY: Amendment of Part 83 of the Commission's rules to require the availability of compulsory radiotelephone equipment to a qualified radio operator at the vessel's steering station in use. This action is being taken at the request of the National Transportation Safety Board following upon several marine disasters. It is hoped this action will reduce the likelihood of a repetition of these kinds of disasters.

DATES: Comments must be received on or before June 18, 1979 and Reply Comments must be received on or before June 28, 1979.

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

FOR FURTHER INFORMATION CONTACT: Irvin Hurwitz, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 of the rules to require the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use, PR Docket No. 79-101.
Adopted: May 2, 1979.
Released: May 18, 1979.

1. This action proposes to amend the Commission's rules so as to ensure at all times the availability—to a radio operator at the vessel's steering station actually in use,—of the radiotelephone installation presently required on boats subject to Title III Part III of the Communications Act of 1934, as amended.

Background

2. Following in the wake of each of two marine disasters each resulting in many fatalities (those involving the charter fishing boats PEARL-C and DIXIE LEE II), the National Transportation Safety Board (NTSB) called on the FCC to amend its rules in certain particulars. Commission rules presently require most boats of this nature, carrying more than six pasengers for hire, to have installed aboard a type-approved radiotelephone capability. The NTSB is in the present case concerned about vessels where the radiotelephone installation is located at the lower control station but the vessel is in fact operated from the flying bridge. They write (page 16 of the Marine Accident Report on the Dixie Lee II):

> The Safety Board believes that the DIXIE LEE II and PEARL-C accidents show that this type of installation is not sufficient for its intended distress and safety purpose * * *

3. Accordingly, the NTSB recommends (Page 21 of the Report).

> Because of this accident has again shown the importance to vessel safety of having a radiotelephone near the operator when he is navigating the vessel, the Safety Board reiterates this recommendation made to the Federal Communications Commission on October 26, 1977:
> "Require the installation of each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications. (Class II, Priority Followup (M-77-31))"

4. The Commission appreciates the force of this recommendation and is consequently proposing in the present action that Part 83 of the regulations be changed to accomplish this purpose.

5. Furthermore, the NTSB is critical of the Commission's rule that permits the radio watch to be maintained by any crew member appointed by the captain. They write (page 16 of the report):

> * * * the designation of a deckhand to monitor the radiotelephone on a charter fishing boat is not adequate assurance that an efficient listening watch will be maintained.

Implicit in the above-quoted recommendation (that we "require the installation at each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications"), is the precondition that the FCC require the operator, i.e. the person at the "operator steering station," to stand the required radio watch; the Commission is therefore proposing that there be deleted from § 83.202(c) of the rules the present authority of the master to designate any crew member to stand the watch. In view of the NTSB assertion that such designation would not be "adequate assurance that an efficient listening watch will be maintained," it is here being proposed that the radio operator as required by § 83.155(e) of the Commission's rules maintain the watch at the steering station in use by the vessel. In lieu of the watch being maintained by the radio operator another designated member of the crew may maintain the watch provided that the radio operator has instructed this other crew member in the proper radio operation and voice procedure. Section 83.155(e) spells out that the radio operator in this situation must be in possession of a radiotelephone 3rd class or higher class of license for vessels installed with radiotelephone transmitters of 250 watts or less carrier power (1500 watts peak envelope power), and radiotelephone 2nd class or higher for vessels with higher powered stations.

6. The proposed amendments to the rules as set forth in the Appendix are issued pursuant to the authority contained in Sections 4(i), 303(b), (1) and (r) and 384 of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before June 18, 1979, and reply comments on or before June 28, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

8. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. Regarding questions on matters covered in this document contact Irvin Hurwitz, Telephone (202) 632-7175.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. In § 83.202, paragraph (c) is amended to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

* * * * *

(c) Each vessel of the United States transporting more than six passengers

for hire, which is equipped with a radiotelephone installation for compliance with part III of title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or continguous to the open sea, keep a continuous and efficient watch on 2182 kHz in the case of an installation operating in the 1605–3500 kHz band, or on 156.8 MHz in the case of an installation operating in the 156–174 MHz band, whenever such installation is not being used for authorized traffic. Such watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by § 83.115(e), or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do no interfere with the effectiveness of the watch.

2. In § 83.514, paragraph (d) is amended to read as follows:

§ 83.514 Radiotelephone installation.

* * * * *

(d) The radiotelephone installation or a remote unit with all controls necessary to ensure reliable communications shall be located at each operator steering station aboard the vessel. Additionally, for vessels of more that 100 gross tons, the radiotelephone installation and all necessary controls shall be located at the level of the main wheelhouse or at least one deck above the vessel's main deck.

[FR Doc. 79-16261 Filed 5-23-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 90]

[PR Docket No. 79-107; FCC 79-283]

Multiple Licensing of Land Mobile Radio Systems ("Community Repeaters") in the Bands 806–812 and 851–866 MHz; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The FCC initiates a Notice of Inquiry exploring the implications of community repeater licensing in the 800 MHz frequency band. The major aspects of the proceeding and how this form of licensing affects the cost to the public; how spectrum efficient is the form of licensing; are consumers satisfied with community repeaters—and would they like alternatives; can the Commission efficiently and fairly administer licensing community repeaters at 800 MHz and effectively enforce its rules.

DATES: Comments must be received on or before August 21, 1979, and Reply Comments must be received on or before October 5, 1979.

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

FOR FURTHER INFORMATION CONTACT: Lewis H. Goldman, Rules Division, Private Radio Bureau, (202) 632-6497.

Adopted: May 3, 1979.

Released: May 16, 1979.

In the matter of an inquiry concerning the multiple licensing of land mobile radio systems ("community repeaters") in the bands 806–812 and 851–866 MHz, PR Docket No. 79-107.

1. The Commission is exploring the policy implications of community repeater licensing in the 800 MHz frequency band. This Notice of Inquiry discusses the major policy implications of community repeaters and is a request to the public for comments on these and any other aspects of this issue. Notice of Inquiry into the above-captioned matter is therefore given.

2. The principal motivation for initiating an inquiry into community repeaters at 800 MHz is our desire to gain a better understanding of the relationship of multiple licensing practices and the major objectives of the Commission's regulatory plan for the private services at 800 MHz. It has been suggested that multiple licensing is not consistent with that regulatory plan. It is still very early in the development of the 800 MHz band, and the time now is right to investigate this claim and clarify the community repeater issue. If the public interest requires specific action to eliminate or curtail the practice, that would be the subject of the next phase of this proceeding.

3. Any member of the public may file written comments in this proceeding. The Commission needs to know what the public thinks and will consider all such comments before taking any further action.

Background and Definitions

4. A "community repeater" is a multiple-licensed base station in the Private Land Mobile Radio Services which functions as a mobile relay. It permits low power mobile units to communicate with one another over a wide area by picking up a signal from one and retransmitting ("repeating") it to another. Because a mobile relay must be located on a high site to be effective in extending communications range, and because such sites are rare, mobile relays are expensive. A practice of sharing facilities among several users has grown up; a community repeater is nothing more than one of these shared mobile relay facilities.

5. Generally, the users who share a mobile relay facility have been brought together by a third party who operates the community repeater on a profit making basis. Often the third party is the vendor of land mobile equipment (such as Motorola) or a manufacturer's representative who is licensed by one or more vendors (such as GE or RCA) to sell their land mobile equipment. The FCC does not regulate any aspect of this third party's activity, including its charges for sharing equipment. The third party (community repeater operator) is not licensed by the FCC.

6. Community repeaters are licensed individually to the users who share them, thus the same piece of equipment generally will be licensed to a number of different entities. This is called "multiple licensing" and has been a widespread practice in the land mobile services since the 1960's. There are many thousands of community repeaters licensed on frequency pairs in the 450 MHz and 470–512 MHz frequency bands. This Notice does not directly involve any aspect of community repeaters in those bands, however, and is limited to community repeaters at 800 MHz.[1]

7. Docket No. 18262 was an extensive allocation proceeding that consumed close to ten years from the mid-1960's to the mid-1970's, in which the Commission gave substantial new spectrum to land mobile. Among other things, the Commission provided 30 MHz (the equivalent of 600 voice-grade channel pairs) for private dispatch, the predominant mode of operation in the private services. The spectrum was divided in half: 300 channels temporarily reserved and the other 300 channels split into two groups. Of the latter group, 100 channels were made available immediately for conventional land mobile systems, and the remaining 200 channels are for trunked land mobile systems.[2] Trunked systems are required to use from 5 to 20 channels, with a central computer to switch automatically from one channel to the next in search of a free channel. Our attention in this Notice is focused on the

[1] The Commission explored a number of issues related to community repeaters in Docket No. 18921 (24 FCC 2nd 510). Some issues in that proceeding remain to be resolved. We plan to take them up in the near future.

[2] Subsequently, an additional 50 channels were made available from the temporary reserve for conventional use.

channels presently allocated at 800 MHz for conventional land mobile use.

Summary of Major Issues

8. The format of this notice will be to present a concise statement of each major issue, followed by a series of questions. Although our principal need is for answers to those specific questions, the format is not intended to discourage public discussion of any other relevant factors. We welcome comments on all aspects of this issue.

9. There are four topical headings under which we explore the dimensions of the community repeater issue. Those four are:

(a) *Economic.* How does the community repeater affect the cost of radio communications equipment to the public?

(b) *Spectrum Efficiency.* Does the community repeater make efficient use of the spectrum?

(c) *User Satisfaction.* Are the consumers of land mobile (broadly, the licensees, the vendors, the users) satisfied with community repeaters, and what would their satisfaction be with alternative arrangements?

(d) *Administrative/Enforcement.* Can the FCC efficiently and fairly administer community repeater licensing at 800 MHz and can it effectively enforce its rules?

Economic/Industry Structure

10. The principal objective of this inquiry is to collect information on whether the availability of community repeater licensing at 800 MHz serves to limit competition in the land mobile market, resulting in unnecessarily high prices for equipment. It is a fact that community repeaters permit the vendor or supplier of radio equipment to exercise substantial control over the delivery of communications service. One vendor, Motorola, sells equipment and operates community repeaters directly. They therefore establish the price for mobile and control equipment, for access to the repeater and its antenna, and generally, for the maintenance of equipment. Normally, the other vendors sell equipment through manufacturer's representatives and dealers, who, in turn, operate community repeaters and, generally, provide for maintenance of equipment.

11. The existence of the community repeater licensing option fosters this degree of control. If the option were not available, it is likely that the vendors would have to give up a degree of control to a third party. The Commission has no direct evidence that the involvement of the vendors in community repeaters has actually resulted in unnecessarily high prices to the public. In view of the possibility that this could occur, we are interested in comments on any aspect of the matter. It may also be that vertical integration results in the lowest cost to the public because it permits an efficient distribution of equipment.

12. (a) What impact, if any, does the current practice of multiple licensing at 800 MHz have on barriers to entry into the manufacture of mobile radio equipment? Into the retailing and servicing of mobile radio systems?

(b) Do any of the Commission's rules or procedures raise barriers to entry into the manufacture of mobile radio equipment? Into the retailing and servicing of mobile radio systems? For instance, do any of our rules or practices require excessive specialization in radio system design or hinder unnecessarily the standardization of radio systems at 800 MHz?

(c) What effect(s), if any, does the current practice of multiple licensing at 800 MHz have upon the price and quality of conventional mobile radio systems at 800 MHz? On the costs of providing conventional mobile radio systems at 800 MHz?

(d) Given the Commission's restrictions on the number of 800 MHz SMR channels that can be licensed in any given market to any one entity, would replacing multiple licensing with third-party SMR licensing affect the costs of providing conventional mobile radio systems at 800 MHz?

(e) What effect(s), if any, does the Commission policy restricting radio equipment manufacturers to operating at most one trunked system at 800 MHz have on the price and quality of trunked mobile radio systems at 800 MHz? On the costs of providing these systems?

(f) What would be the impact of eliminating community repeaters on other communications services (i.e., the service provided by the RCC's cellular radio systems, the personal radio services, others)?

(g) Do equipment vendors limit competition by restricting access to desirable antenna sites through exclusive rental agreements?

(h) Can the mobile equipment of each major vendor be used interchangeably on any community repeater? If not, should there be a rule requiring it?

(i) How does the cost of non-shared repeater systems for individual use compare with the typical community (shared) repeater systems.

Spectrum Efficiency

13. Substantial controversy revolves around the question whether community repeaters are efficient users of the spectrum. The main reason for arguing that they are inefficient is that the users who are attracted to a community repeater generally do not need the extensive service area that they given. The users come from different different part of the city, in a typical case, and may have businesses that differ substantially in the area they serve. Because of the central location of a typical repeater, however, each user will get exactly the same coverage area. The entrepreneur who constructs the facility must attract as many potential users as he/she can, so there is a strong incentive to cover as large an area as possible. The result is that the typical repeater has a relatively high antenna with something close to the highest power levels that the rules permit.

14. Ever since the Commission first began licensing conventional systems at 800 MHz three years ago, it has been apparent that community repeaters are at least as popular at 800 MHz as they were in the 450 MHz and 470–512 MHz bands. In the major urban areas, 55% of the applications we have received have been for these shared facilities. One aspect of the spectrum efficiency argument is that these uers are operating at greater heights, and with considerably more power, than their individual requirements would warrant. The Commission is interested in comments on whether the availability of this kind of licensing is caused users to waste spectrum by buying more coverage area than they need.

15. The spectrum efficiency issue is complicated by the effects of the Commission's mobile loading and co-channel re-use rules. The mobile loading rule limits the number of mobile units that will be assigned on each frequency within each area. Unlike the practice in most other land mobile bands, sharing of frequencies is quite limited because of this rule. In conjunction with the mobile loading limit, there is a channel re-use rule which prevents the assignment of a channel within interference range (about 70 miles) of existing systems. The effect of these two rules is to limit the number of times a frequency can be assigned within each urban area. In light of that, it may not make the difference, in terms of spectrum efficiency, whether all of the users share the frequency at one site (i.e., community repeater) or they each use the frequency at a specific location for a particular service area. The same

total number of mobile units normally will be served by each frequency under either configuration.

16. A recent study by the Commission's staff seems to point in the same direction, even in the bands where mobile loading and channel re-use rules are either non-existent or significantly different. A search of our data files established that a frequency serves roughly the same number of mobile units whether it is assigned to a centrally located, shared facility, or is used by several different, independent systems. It may also be that channel discipline on a community repeater is better because everyone is using the same transmitter, rather than having multiple transmitteers all operating on the same frequency within one area.

17. The following inquiries are suggested by these factors:

(a) Does the typical user of a mobile relay facility at 800 MHz have more communications range than he realistically needs?

(b) If community repeaters or similar arrangements were not permitted at 800 MHz, would the typical user construct a station with a significantly lower antenna and with significantly less transmitter power?

(c) If there were no mobile loading and channel re-use rules, and if community repeaters at 800 MHz were not permitted, would the same amount of spectrum permit more intensive, more beneficial channel sharing?

(d) If there were no upper limit on the number of mobiles that could be assigned, would greater spectrum efficiency be achieved without community repeaters?

(e) Do our rules and assignment practices act as barriers to efficient spectrum use?

(f) Are there advantages in spectrum efficiency to the community repeater at 800 MHz? Are there disadvantages in spectrum efficiency to the community repeater at 800 MHz?

(g) If the users of spectrum were required to pay a fee for the amount of spectrum used, would this eliminate the potential of spectrum inefficiency in community repeaters?

(h) Is there any difference in the spectrum efficiency of community repeaters compared to that of a conventional SMR?

User Satisfaction

18. The ultimate user of land mobile, of course,is the licensee who operates the radios. The difficulty in evaluating this user's satisfaction with the community repeater is that the typical user knows very little about the FCC's licensing practices. The users' concern normally is with the operation of the system, and they rely principally on the equipment vendor to handle licensing details. We therefore have to be cautious in inferring user satisfaction from the popularity or lack of popularity of a given licensing scheme. More often than not, it is like vendor which chooses the licensing technique to follow, not the user. So when we talk about user satisfaction, we have to keep in mind the interests of both the license and the vendor.

19. Nevertheless, we do know that the market place currently is free to choose between three licensing techniques at 800 MHz for conventional private systems. These are individual systems, community repeaters, and the specialized mobile radio (the SMR). The SMR is a licensing category which permits an entrepreneur to license a mobile relay facility in its own name, and to offer repeater facilities for a fee to entities eleigible in the private land mobile radio services. Over the past three years at 800 MHz, 20% of users have met their requirements with private systems, 20% with SMR systems, and 60% with community repeaters. We are not certain why the community repeater is much more widely selected than the SMR, but several possible explanations have been developed.

20. The rules limit the number of conventional frequencies that an SMR may operate in any one market. That limit is five; if a system must expand beyond five, there is a requirement to trunk. Therefore, it has been argued that the vendors prefer the community repeater approach, since there is no limit on the number of such systems that the vendor can sponsor in each market. It is also possible that the vendors prefer to operate without being a licensee of the Commission (the SMR concept requires vendor licensing), or prefer to continue doing business at 800 MHz in ways that have been very successful at 450 MHz and 470 MHz.

21. A key issue is whether the SMR offers the potential of providing user satisfaction which is greater than or equal to the satisfaction with community repeaters. The freedom of choosing between the two has resulted, to date, in a clear preference for community repeaters. The Commission needs to have as much information as possible on whether this preference is for the reasons given and, if so, what the effects would be of eliminating the community repeater option.

22. The Commission's stated intention in Docket No. 18262 was to provide for the most efficient use of spectrum by the land mobile services. It also wanted to reduce the possibility of lengthy legal controversies between rival claimants for spectrum, and it emphasized the advantage of making spectrum available quickly and easily. The apparent success of this philosophy has been revealed by the heavy demand for 800 MHz, particularly in Chicago, New York, and Los Angeles. We need as much information as possible about the role of the community repeater in providing the user satisfaction which has been responsible for this growth. We need to know whether user acceptance would be curtailed if the SMR were the primary option for the small user with a need to share equipment in order to reduce costs.

23. These factors prompt the Commission to pose the following questions:

(a) Does the ultimate user of land mobile frequencies at 800 MHz, the licensee, receive the same satisfaction with the SMR as with the community repeater?

(b) If not, which is greater?

(c) If there is a difference, are there specific rule changes that would change the situation? Should these changes be made? Why or why not?

(d) Does the land mobile equipment vendor achieve benefits with community repeater licensing that are not available with the SMR? If so, are there changes in the rules which would permit the SMR to produce equivalent benefits? Should these changes be made? Why or why not?

(e) If the number of licensed mobile units is the same, does a community repeater channel offer the user more or less satisfaction than if the channel were shared by individual systems?

(f) Are the Commission's present rules regarding the SMR and the community repeater adequate to provide an unbiased market place choice between the two? If not, what rule changes would eliminate the difference? Should these changes be made, or do the differences result in measurable benefits?

Administrative/Enforcement

24. The Commission's rules at 800 MHz are designed to ensure that frequencies are used and not stock piled. Two rules are of particular interest. The first is sequential assignment, which provides, in effect, that frequencies are assigned in sequence in each area, and in the order in which applications are received. The first applicant gets frequency number one, the second gets frequency number two, and so on. The second rule provides for vertical loading, which

means that licensees are stacked on a frequency until it is loaded with a prescribed number of mobile units. If frequency number one is not fully loaded, as an example, then the next applicant in the processing line is assigned the same frequency, if it can accommodate the requested number of mobiles. These rules operate to insure that frequencies are assigned in an orderly way and that full utilization of a channel is accomplished before the next vacant channel is assigned.

25. Section 90.369(c) of the Rules states that the Commission will consider whatever factors it deems appropriate when making frequency assignments, to ensure that the channels are being used ifficiently and effectively. This principle applies to the selection of frequencies for users proposing a community repeater mode of operation. Obviously, the same frequency must be assigned to each proposed user, or the system will not work. Applications for each user are not filed simultaneously; and, therefore, they are not reached for processing simultaneously. We do not ignore this fundamental aspect of the marketplace when we make assignments. We read § 90.369(c) to provide ample discretionary power to group users on a common frequency, if a request to do so is made and if doing so would result in no hardship to any other applicant. It is true, however, that the relatively large number of applications we recieve for community repeaters imposes a significant burden on our processing staff to identify the applications which all relate to a single site.

26. There are circumstances in which proposed shared facilities do not fully materialize. In these instances, the staff is required to assign the same frequency to other users. This has been our practice from the outset. It has also been our practice in those cities where conventional frequencies have begun to run out, to give consideration to applications strictly on the basis of first-in, first-served. This has resulted sometimes in a hardship on proposed community repeaters, but we feel that the more important interest in that case is the right of applicants to be given consideration in turn.

27. These factors prompt us to solicit comments on the administrative effect of community repeater licensing and, in general, on the operation of our sequential assignment and vertical loading rules.

28. The Commission's efforts to insure that the 800 MHz frequencies would be fully occupied resulted in a rule which requires each applicant to certify that it has reached its required mobile loading level within eight months from the time the license was granted. To date, this rule has presented our most difficult enforcement problem. There is a natural incentive on the part of each community repeater entrepreneur to load a channel quickly, so that the frequency is not made available to anyone else. This, in turn, may cause the entrepreneur to encourage each user to request in his application the highest possible number of units. Since there is no disincentive to this practice, we license a significant number of systems (approximately 35%) with more mobile units than they will realistically acquire. At the end of eight months, we then have to take action to reduce the number to what is actually on hand.

29. Although this phenomenon of overstating mobiles is not limited to community repeaters, it does highlight a disadvantage in this licensing technique. Since the entrepreneur has no legal status with the Commission, and is not a licensee, we have a difficult time enforcing this rule against it. In general, the community repeater form of licensing removes us from the entrepreneur who is the real decision maker behind a system. We are hampered in our efforts to optimize the use of each frequency by the fact that we do not have any licensing power over the principal actor.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 7119; Notice 8]

Federal Motor Vehicle Safety Standards; Rims for Motor Vehicles Other Than Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Correction.

SUMMARY: In the Federal Register of March 5, 1979 (44 FR 12072), this agency published an advance notice of proposed rulemaking, which announced that this agency was considering requiring certain performance levels to be met by multipiece rims for motor vehicles other than passenger cars. A statement in the notice stated the agency's belief that two particular types of multipiece truck rims, the RH5° and the K-type, continue to be produced. Subsequent information indicates that the agency's belief was incorrect. Accordingly, this notice corrects the agency's apparently incorrect statement about continued production of those rims.

FOR FURTHER INFORMATION CONTACT: Frederick Koch, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2800).

SUPPLEMENTARY INFORMATION: The NHTSA issued an advance notice of proposed rulemaking (44 FR 12072, March 5, 1979) in which it announced that it was contemplating establishing certain performance requirements for multipiece rims used on trucks and other vehicles other than passenger cars. That notice referred to two previous defect investigations of particular types of multipiece rims, and indicated that those investigations had been closed after some recommended actions were taken. The notice then stated:

> Since those cases were closed, information has come to the attention of the agency which indicates that the steps taken by NHTSA before closing the cases have not had the desired effectiveness in reducing the risks of serious injury and death from the explosive separations of multipiece rims. There are indications that RH5° and K-type rims continue to be produced, although in smaller numbers.

When this statement about continued production of certain rims was published, NHTSA believed that these two particular types of rims were being made available in the United States by importing them from foreign producers, and by reworking and recovering used rim parts and then reselling the rims. Goodyear contacted NHTSA and stated that it was the sole producer of K-type rims, and that it has not produced these rims since 1968 and that its inventory supplies of these rims were sold out in 1972. According to Goodyear, distribution and sales of these rims was ended completely by May 1973.

This agency has no information which indicates that Goodyear's claims regarding the K-type rims are inaccurate.

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

Issued on May 17, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-16129 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-59-M

[49 CFR Part 575]

[Docket No. 25; Notice 32]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendment of the Uniform Tire Quality Grading (UTQG) Standards to permit flexibility in the design of tread labels used to convey tire grading information to consumers. This modification is proposed in response to a petition for rulemaking submitted by Armstrong Rubber Company and is intended to aid consumers and tire manufacturers by assuring that tires are labeled with the correct UTQG grades.

DATES: Comments must be received on or before June 20, 1979. Proposed effective date: April 1, 1980.

ADDRESSES: Comments should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: The UTQG Standards (49 CFR 575.104) assist consumers in making an informed choice in the purchase of passenger car tires by making available comparative information on three tire performance characteristics—treadwear, traction and temperature resistance. This information is conveyed to consumers through a variety of means including the use of a label attached to the tire tread surface indicating grades in each of the three performance areas and containing an explanation of the grades (49 CFR 575.104(d)(1)(i)(B)). The required text and format of the label are illustrated in Figure 2 of the regulation.

Paragraph (d)(1)(i)(B) of section 575.104 provides that the treadwear grade applicable to a particular tire must be imprinted or indelibly stamped on the tread label adjacent to the description of the treadwear grade. The applicable traction and temperature grades must be indelibly circled in a display of all possible grades that appear in the label's text.

In October 1978, the Armstrong Rubber Company requested that NHTSA interpret or amend the UTQG regulation to permit use of an alternative labeling format in which treadwear, traction, and temperature grades applicable to a particular tire would be printed on a label containing tire identification information, such as brand name, type, and size. The explanation of the grading system, as stated in Figure 2 of the rule, would be provided on a separate tread label. Atlas Supply Company also sought agency approval of a two-part UTQG label.

NHTSA treated Armstrong's request as a petition for rulemaking and published a notice seeking comment on the Armstrong and Atlas proposals (44 FR 1814; January 8, 1979). Based on comments received in response to that notice, NHTSA grants in part the Armstrong petition and proposes modification of the UTQG regulation to permit use of a two-part tread label. To the extent Armstrong's petition is not granted by this notice, the petition is denied.

Commenters on the Armstrong petition agreed that the possibility of mislabeling UTQG grades is reduced by printing grades on the same label with tire identification information. As stated in NHTSA's January 8, 1979 notice (44 FR 1814), the UTQG regulation now permits inclusion of tire grades and explanatory material on the same label with tire identification information. However, the tire grades must appear on the same label as the explanatory material.

Some commenters indicated difficulty in placing tire identification information, UTQG grades and explanatory material on a single label, citing problems with label application and retention to the tire tread. All commenters agreed that permitting use of two-part tread labels would assist manufacturers in supplying accurate grading information to consumers.

Commenters also agreed that flexibility in tread labeling is advantageous, since it would allow manufacturers with differing production, labeling and warehousing systems to choose the type of label which best fits their operations. The Goodyear Tire & Rubber Company expressed the opinion that increased flexibility in format would improve retention to the tire tread and minimize costs to manufacturers and consumers. The Rubber Manufacturers Association and Cooper Tire & Rubber Company noted that existing differences in tire identification labels have not caused problems in communicating tire information.

To assist in assuring that tires are labeled with their correct UTQG grades, NHTSA proposes to amend Part 575.104(d)(1)(i)(B) by the adoption of a revised format for tire tread labels. The proposed new format would provide for listing applicable UTQG grades as the first part of a two-part label (Figure 2, Part 1) followed by the general explanation of the grading system (Figure 2, Part 2). Under this proposal, if a manufacturer wishes to include the applicable UTQG grades (Part 1) on a tire identification label which does not include the general explanatory information (Part 2), he may do so, provided the text of the explanation appears within a specified distance from the specific grades.

The proposals originally submitted by Armstrong and Atlas recommended that no more than one-quarter or one-half inch separation be allowed between the components of a two-part label. However, in later comments Armstrong and Atlas, joined by other industry sources, argued that such a limitation would be too restrictive in view of the imprecise nature of high volume, hand application of labels. Most commenters favored a requirement that the two labels be in "close proximity" to one another. Atlas suggested that requiring both labels to be simultaneously visible would be sufficient. Armstrong stated that if a maximum distance were specified, one or two inches would be appropriate.

NHTSA has tentatively concluded that use of a subjective phrase such as "close proximity" would be ambiguous and would not provide sufficient guidance to manufacturers. Therefore, the agency proposes that the UTQG explanatory information appear not more than one inch away from the specific grades.

Atlas recommended that two-part labels contain a statement on the label containing the tire grades, referring the reader to the general explanatory label. NHTSA believes that such a statement would not only call attention to the important explanatory information, but would inform the reader of its existence in the event the explanatory label became detached from the tire. Therefore, NHTSA proposes inclusion of such a statement when a two-part label is employed.

Cooper stressed the importance of presenting UTQG grading information in a legible manner. Sample UTQG tread labels submitted to NHTSA reveal that certain manufacturers have printed their tread labels in type too small to effectively convey the tire grading information. To assure that the required UTQG information is legibly presented, NHTSA proposes that all lower case letters in the text of Figure 2 be printed in a type size having a height of no less

than three printer's points, as measured by the lower case letter "x". All capital letters in Figure 2, including the UTQG grades applicable to the particular tire, would be printed in the same or a larger type size.

NHTSA wishes to emphasize that this proposal specifies a minimum acceptable type size. Manufacturers and brand name owners who find it feasible to use a larger type size are encouraged to do so.

Armstrong's October 19 petition proposed orientation of the explanatory text along the tread circumference instead of perpendicular to it. In a subsequent comment, Armstrong modified its suggested label to orient the text perpendiular to the tread circumference. Comments from several manufacurers suggested that tires are typically displayed in both horizontal and vertical positions, making the orientation of the label text of little consequence in facilitating consumer access to the UTQG information. However, based on its own observations of several tire retail outlets, NHTSA has concluded that upright positioning is clearly the most common method used in the display of tires. Further, the general practice of attaching manufacturer's tire identification labels with their text oriented perpendicular to the tire tread suggests that this orientation is recognized as providing easiest access to the information presented.

NHTSA wishes to call the attention of all interested parties to the agency's letter to Armstrong, dated November 20, 1978, in which NHTSA interpreted Figure 2 of the UTQG regulation as requiring the text of that figure to be oriented with lines of type running perpendicular to the tread circumference. For the reasons stated above, NHTSA now proposes that the regulation be amended to explicitly state this requirement. To encourage the display of the UTQG information in a readily accessible manner, NHTSA further proposes that when a tire identification label bearing a tire size designation is attached to the tire tread with the size designation oriented perpendicular to the tread circumference, the Figure 2 text will be displayed on the tread reading in the same direction as the tire size designation.

The Armstrong petition also suggested printing on the tread label only the UTQG grades applicable to the particular tire, rather than circling traction and temperature grades in a display of all possible grades, as is now required by the regulation. Although Armstrong subsequently withdrew this suggestion, Atlas commented that the display of all possible grades may be counterproductive to consumer understanding of the grading system since, after observing the relative quality of the tire, purchasers may be less inclined to read the explanatory text.

Conversely, Dunlop contended that the display of all traction and temperature grades would be meaningful only if the consumer also reads the detailed explanation. For this reason, NHTSA believes that displaying all possible grades will not discourage reference to the explanatory material. Since NHTSA considers the display of all possible grades to be a helpful graphic reminder of the grades' significance, NHTSA proposes to retain this requirement in its present form.

The commenters agreed that transition to a modified tread label following the effective date of the UTQG regulation would not lead to consumer confusion. Because, as noted by Dunlop Tire & Rubber Corporation, some manufacturers may already have obtained tread labels in reliance on the existing labeling requirements, an effective date of April 1, 1980 is proposed for these amendments. NHTSA further proposes that the amended labeling format be permitted at the manufacturers option prior to that date. The agency requests comment on whether the simultaneous use of alternative labeling formats would lead to consumer confusion.

Since this notice proposes only a minor modification of the UTQG labeling requirements and is intended to aid the tire industry in supplying accurate information to consumers without an increase in costs, the proposal is not considered significant and a full evaluation of the economic consequences of the proposal is not warranted under Department of Transportation policy on internal review of proposals, NHTSA has determined that the proposed amendments will have no measurable adverse effect on the environment.

In an unrelated matter, there is apparently some uncertainty as to whether tires designed for use throughout the year and in place of snow tires, the so-called "all-weather tires", fall within the category of "deep tread, winter-type snow tires" as used in paragraph (c) of the tire grading regulation (49 CFR 575.104(c)). The UTQG Standards do not apply to deep tread, winter-type snow tires.

While all-weather tires may share some characteristics of snow tires under industry categorization systems, they are not limited in acceptable use to winter periods by virtue of their construction. The qualifying language "deep tread, winter-type" indicates NHTSA's intention to except only a strictly limited class of tires, the deep tread rubber and tread design of which makes year round use on passenger automobiles inadvisable. Since all-weather tires are designed with a tread depth which permits and is in fact intended for safe operation throughout the year, they do not qualify as "deep tread, winter-type snow tires" for purposes of the applicability of the UTQG Standards.

In consideration of the foregoing, it is proposed that 49 CFR Part 575.104, Uniform Tire Quality Grading, be amended as follows:

1. Section 575.104(d)(1)(i)(B) would be amended to read:

§ 575.104 Uniform tire quality grading standards.

* * * * *

(d) Requirements. (1) Information. (i) * * *

(B)(1) Each tire manufactured before April 1, 1980, other than a tire sold as original equipment on a new vehicle, shall have affixed to its tread surface in a manner such that it is not easily removable a label containing its grades and other information in the form illustrated in Figure 2, Part 2, bearing the heading "DOT QUALITY GRADES." The treadwear grade attributed to the tire shall be either imprinted or indelibly stamped on the label adjacent to the description of the treadwear grade. The label shall also depict all possible grades for traction and temperature resistance. The traction and temperature resistance performance grades attributed to the tire shall be indelibly circled. However, each tire labeled in conformity with the requirements of paragraph (d)(1)(i)(B)(2) of this section need not comply with the provisions of this paragraph.

(2) Each tire manufactured on or after April 1, 1980, other than a tire sold as original equipment on a new vehicle, shall have affixed to its tread surface so as not to be easily removable a label or labels containing its grades and other information in the form illustrated in Figure 2, Part 1 and 2. The treadwear grade attributed to the tire shall be either imprinted or indelibly stamped on the label containing the material in Part 1 of Figure 2, directly below the word "TREADWEAR". The traction and temperature resistance performance grades attributed to the tire shall be indelibly circled in the array of letters

directly below the words "TRACTION" and "TEMPERATURE" in Part 1 of the Figure 2 material. The text of Part 1 and the text of Part 2 in Figure 2 need not appear on the same label, but the edges of the two texts must be positioned on the tire tread so as to be separated by a distance of no more than one inch. If the text of Part 1 and the text of Part 2 are placed on separate labels, the notation "See EXPLANATION OF DOT QUALITY GRADES" shall be added to the bottom of the Part 1 text, and the words "EXPLANATION OF DOT QUALITY GRADES" shall appear at the top of the Part 2 text. The text of Figure 2 shall be oriented on the tire tread surface with lines of type running perpendicular to the tread circumference. If a label bearing a tire size designation is attached to the tire tread surface and the tire size designation is oriented with lines of type running perpendicular to the tread circumference, the text of Figure 2 shall read in the same direction as the tire size designation. Each lower case letter in Figure 2 shall be represented in a type size having a height of three printer's points or more, as measured by the lower case letter "x". All capital letters in Figure 2 shall be represented in capital letters of the same or a larger type size than that used for lower case letters.

§ 575.104 [Amended]

2. Section 575.104, Figure 2 would be amended to read:

Figure 2.—Part 1—DOT Quality Grades

Treadwear

Traction ABC

Temperature ABC

Part 2—All Passenger Car Tires Must Conform to Federal Safety Requirements in Addition to These Grades

Treadwear

The treadwear grade is a comparative rating based on the wear rate of tire when tested under controlled conditions on a specified government test course. For example, a tire graded 150 would wear one and a half (1½) times as well on the government course as a tire graded 100. The relative performance of tires depends upon the actual conditions of their use, however, and may depart significantly from the norm due to variations in driving habits, service practices and differences in road characteristics and climate.

Traction ABC

The traction grades, from highest to lowest, are A, B, and C, and they represent the tire's ability to stop on wet pavement as measured under controlled conditions on specified government test surfaces of asphalt and concrete. A tire marked C may have poor traction performance. Warning: The traction grade assigned to this tire is based on braking (straightahead) traction tests and does not include cornering (turning) traction.

Temperature ABC

The temperature grades are A (the highest), B, and C, representing the tire's resistance to the generation of heat and its ability to dissipate heat when tested under controlled conditions on a specified indoor laboratory test wheel. Sustained high temperature can cause the material of the tire to degenerate and reduce tire life, and excessive temperature can lead to sudden tire failure. The grade C corresponds to a level of performance which all passenger car tires must meet under the Federal Motor Vehicle Safety Standard No. 109. Grades B and A represent higher levels of performance in the laboratory test wheel than the minimum required by law. Warning: The temperature grade for this tire is established for a tire that is properly inflated and not overloaded. Excessive speed, under-inflation, or excessive loading, either separately or in combination, can cause heat buildup and possible tire failure.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

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

The principal authors of this proposal are Dr. F. Cecil Brenner of the Office of Automotive Ratings and Richard J. Hipolit of the Office of Chief Counsel.

(Sec. 102, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: May 15, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-15978 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-59-M

[49 CFR Part 571]

Grant of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration, (DOT).

ACTION: Grant of Petition for Rulemaking.

SUMMARY: This notice grants petitions to commence a proceeding to amend Standard No. 212, *Windshield Mounting*, and Standard No. 219, *Windshield Zone Intrusion*. Petitions were received from the Truck Body and Equipment Association (October 23, 1978) and The National Truck Equipment Association (April 20, 1979) seeking an amendment of these two standards as well as Standard No. 301, *Fuel System Integrity*. The amendments requested by these two organizations would reduce or eliminate the impact of these regulations upon final-stage vehicle manufacturers who, they contend, are unfairly burdened by the crash test requirements of the safety standards.

FOR FURTHER INFORMATION CONTACT: Mr. William Smith (NRM-12), Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590 (202) 426-2242.

SUPPLEMENTARY INFORMATION: When the agency extended the applicability of Standards Nos. 212 and 219 to light trucks, it was not aware that some vehicle chassis manufacturers would respond by imposing severe weight and center of gravity restrictions on chassis used by final-stage vehicle manufacturers in the construction of their vehicles. For a number of reasons, chassis manufacturers have imposed these restrictions resulting in the inability of some final-stage vehicle manufacturers to complete vehicles (typically by adding some type of body) without violating at least one of the restrictions. If the restrictions are not exceeded, the final stage manufacturer may rely on the certification by the earlier manufacturers of the vehicle.

However, if they are exceeded, the final-stage manufacturer must certify the vehicle's compliance with the Federal safety standards based upon its own information.

To resolve the problem mentioned above, the representative groups of the final-stage manufacturers submitted petitions to the agency seeking relief. These petitions have been further supported by numerous letters from final-stage manufacturers that have been adversely impacted by the combined effects of the regulation and the decision of the major chassis manufacturers to impose severe weight and center of gravity restrictions.

The agency has reviewed the petitions and concludes that rulemaking should commence exploring possible avenues of relief for final-stage manufacturers. The agency concludes that it is appropriate to re-examine the existing standards to see whether they provide an appropriate level of safety for light trucks.

To accomplish the above objective, the agency grants the petitions for rulemaking to the extent that they request a re-examination of the application of Standards Nos. 212 and 219 to light trucks. However, the agency denies the petitioners' requests for a modification of Standard No. 301. That standard has been in effect longer than the other two standards and final-stage manufacturers have learned to build vehicles in compliance with the standard. Further, the restrictions imposed by the chassis manufacturers frequently are not so severe for this standard as they are for Standards Nos. 212 and 219. Finally, even if the chassis manufacturer's restrictions with respect to Standard No. 301 are exceeded, final-stage manufacturers are frequently able, with the use of increased shielding of the fuel system, to certify compliance with the standards without crash testing their vehicles.

The agency notes also that conformance to Standard No. 301 is especially important for all vehicles on the road. Noncompliance with this standard by a vehicle can jeopardize the safety of occupants of other vehicles that might be impacted by the noncomplying vehicle. Accordingly, the agency concludes that an amendment of the standard is not in the interest of safety.

The NHTSA intends to propose several options for amending Standards Nos. 212 and 219 that will achieve the necessary safety levels while providing reasonable tests that all manufacturers can perform. The agency believes that all manufacturers must be responsible for their manufacturing operations and for compliance with the standards that are affected by their manufacturing operations. A notice of proposed rulemaking is planned for June.

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

Issued on May 22, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-16463 Filed 5-22-79; 5:02 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Meeting

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

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 21, 1979.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27505.

Time: 1:00 p.m.

Purpose: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1979 season. Also, other matters as specified in 7 CFR, Part 29, Subpart G, § 9404.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300—12th Street, S.W., Washington, D.C. 20250 (202) 447-2567. Written statements should be submitted prior to or at the meeting.

Dated: May 21, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-16234 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Land and Resource Management Plan; Six Rivers National Forest, Del Norte, Humboldt, Siskiyou, and Trinity Counties, Calif.; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture-Forest Service will prepare an Environmental Impact Statement for the Forest Plan for the Six Rivers National Forest.

This plan will provide policy and program direction for all National Forest system lands under the administration of the Forest Supervisor, except the Yurok Experimental Forest.

The Forest Plan will:

(a) Briefly describe major public issues and management concerns,

(b) Briefly describe the lands and resources of the Six Rivers National Forest,

(c) Identify the goals and objectives of managment,

(d) Describe the expected types and amounts of goods, services, or uses by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable activities.

(f) Identify monitoring and evaluation requirements,

(g) Refer to information used in the plan development,

(h) Identify the persons who participated in the plan development with a summary of their qualifications.

The Forest Plan will be selected from a range of alternatives which will include at least:

(a) A "no-change" alternative which represents continuation of present levels of activity,

(b) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and insure that a major portion of planned intensive multiple-use and sustained yield management procedures are operating on an environmentally sound basis, and

(c) One or more alternatives formulated to resolve the identified major public issues and management concerns.

As an early step in the planning, Federal, State and local agencies, organizations, and individuals who may be interested in, or be affected by the decision will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of the issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant or which have been covered by prior environmental review.

To accomplish this, the Six Rivers will conduct "scoping" sessions on June 21 in Eureka, Cresent City, Orleans, Willow Creek, and Dinsmore. All sessions will run form 7:30-9:30 p.m.

Sessions will be at these locations:

Eureka—Red Lion
Crescent City—Cultural Center
Orleans—Community Center
Willow Creek—Lower Trinity Ranger Station
Dinsmore—Southern Trinity High School

For further information about the planning or the Environmental Impact Statement, contact: Owen Peck, Forest Planner, Six Rivers National Forest, 507 F Street, Eureka, California 95501, telephone No. (707) 442-1721.

The estimated date for filing the draft Environmental Impact Statement is February 1981; for filing the final Environmental Impact Statement, October 1981.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-16277 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Dockets 33112 and 33283]

TXI-National Acquisition Case and Pan Am-National Acquisition Case; Revised Notice of Oral Argument

On May 11, 1979 a Notice of Oral Argument was sent to all parties wishing to participate in the TXI-National Acquisition Case, Docket 33112 and the Pan Am-National Acquisition Case, Docket 33283. Since it is possible the Oral Argument in this proceeding may require more than one day, it is now being scheduled to be heard on June 21 and June 22, 1979, in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before June 1, 1979, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., May 18, 1979.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-16270 Filed 5-23-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New Jersey Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 2:00 pm and will end at 5:00 pm, on June 13, 1979, at the Ramada Inn, Route 18, Schoolhouse Lane, New Brunswick, New Jersey 08816.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office, 26 Federal Plaza, Room 1639, New York, NY 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 20, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-16318 Filed 5-23-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Importation of Fabricated Steel Products; Availability of New Information Series

The Department of Commerce announces the issuance of a new statistical information series relating to the importation of selected fabricated steel products. The information is being gathered and released to the public in order to facilitate the assessment of changes that may occur in steel trade, particularly shifts in imports from basic steel products to steel products advanced in value by further processing, such as fabricated steel.

The scope of product coverage in the monitoring system is quite diverse and extensive. It covers structurals, platework, structures (bridges, hangars and oil drilling rigs), and numerous other products (valves, wire, industrial fasteners, etc.)

The monitoring system provides information on imports of fabricated steel products by country of origin and shows monthly data, cumulative year-to-date data, as well as year-to-year comparisons. The report also shows certain imports by five principal U.S. Customs regions.

The report consists of the following: (1) "Monitoring List A" provides information on imports for which data by both quantity and value are available; (2) "Monitoring List B" provides information on certain products now reported only in terms of value; and (3) a "Watch List" of products for which less detailed information will be made available at the outset.

Major product groupings in the monitoring system are: (A10) fabricated structural steel, (A20) structures (such as hangars, bridges, etc.), (A30) fabricated steel platework, (A40) pipe and tube fittings, (A50) valves, (A60) selected industrial fasteners. (A70) miscellaneous fabricated wire products; (B10) fabricated steel platework (such as floating structures, metal containers, and boilers), (B20) other selected industrial fasteners, (B30) miscellaneous fabricated wire products (including wire cloth); (C10) certain other industrial fasteners and (C20) ball and roller bearings and their parts.

Countries of origin individually shown are: Japan, Canada, West Germany, Belgium-Luxembourg, France, Italy, The Netherlands, United Kingdom, Austria, Sweden, Spain, Korea, and South Africa. Totals are provided also for "all others" as a group and for the world as a whole.

The first report to be issued in the series will cover data for January 1979 with comparison to the same month in 1978. Monthly data for subsequent periods will be released regularly thereafter. To permit reference to earlier years, full-year data for 1975-78 have been compiled manually and are available upon request.

Summary tabulations of monthly data will be sent to interested trade associations, labor groups, and trade publications for dissemination. Copies will be available also for reference at selected Commerce Department field offices. Copies of detailed tabulations will be available for reference at the Commerce Department, Room 2314, Main Building, Washington, D.C. For further information, interested parties should write to the Import Programs Division, U.S. Department of Commerce, Main Building, Room 6895, Washington, D.C. 20230, or telephone 202/377-5318 or 377-2104.

Bernard Ascher,
Director, Import Programs Division, Office of Business Programs, Bureau of Domestic Business Development, Industry and Trade Administration.
[FR Doc. 79-16316 Filed 5-23-79; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Federal Response to Radioactive Contamination from Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79-16192 appearing in Part VIII of this issue.
BILLING CODE 3510-12-M

Office of the Secretary

Presentation Before Interagency Committee on Standards Policy Regarding ANSI's New "Service Fee System"; Open Meeting

The Department of Commerce functions as the Federal Government focal point in the development, coordination, and strengthening of U.S. national and international standards policy in the public interest. In this capacity the Department has become cognizant of the new "service fee system" of the American National Standards Institute (ANSI) which, when fully implemented next year, is expected to provide a means for obtaining financial support for ANSI in direct proportion to the workload imposed on it by users of its services.

The Interagency Committee on Standards Policy (ICSP) is chartered and chaired by the U.S. Department of Commerce. The purpose of the ICSP is to facilitate the effective participation by the Federal Government in domestic and international standards activities and to promote the development of uniform policies among agencies participating in these activities. In this connection, the ICSP has invited Mr. Sava Sherr, Managing Director of the American

National Standards Institute (ANSI), to describe ANSI's new "service fee system," including its potential impact on Federal agencies.

Interested members of the public are invited to attend Mr. Sherr's presentation on the ANSI "service fee system." This presentation will take place at 9:30 A.M., July 11, 1979, room 6802, U.S. Department of Commerce, 14th Street, NW, (between E Street and Constitution Avenue), Washington, D.C.

The first 30 minutes following Mr. Sherr's presentation will be devoted entirely to comments, questions, and answers which members of the ICSP or other Federal Government personnel in attendance as observers may wish to present to Mr. Sherr and to the ICSP. It is recognized that other interested persons may wish to express their views on the "service-fee system" to the ICSP representatives at the July 11 meeting. Accordingly, the ICSP chairman has determined in the public interest that a maximum of one hour will be set aside for such views to be expressed. That hour will begin immediately upon the end of the half hour set aside for discussion by Federal Government personnel with Mr. Sherr, as described above.

Any interested person wishing to be called upon to express his or her views on the ANSI service-fee system and its impact on Federal agencies at the July 11, 1979 meeting should contact Dr. Howard I. Forman, ICSP chairman and Deputy Assistant Secretary for Product Standards, no later than July 3, 1979, either by telephone or by letter. Dr. Forman is located at the main Commerce building, room 3876, on 14th Street, NW, (between E Street and Constitution Avenue), Washington, D.C., telephone (202) 377-3221. Time for expression of such views will be allocated as equitably as possible, depending on the number of such requests, and consistent with the plan to conclude the meeting by 12:30 P.M.

Following the expression of views by interested parties, as described above, the ICSP will go into closed session to discuss other business matters pursuant to its normal procedures.

Dated: May 18, 1979.

Francis W. Wolek,

Acting Assistant Secretary for Science and Technology.

[FR Doc. 79-16257 Filed 5-23-79; 8:45 am]

BILLING CODE 3510-18-M

Privacy Act of 1974: Adoption of Additional System of Records

On April 17, 1979 the Department of Commerce gave notice (44 FR 22797-98) that it proposed to adopt a new Privacy Act System of Records entitled: Work Schedule Study Interview Records, Commerce/Dept-23.

The new system of records will be maintained as part of a George Washington University study entitled, "The Effects of Work Schedules on Families." The Commerce Department has awarded a contract to the University's Family Impact Seminar, under which a small group of Martime Administration and Economic Development Administration employees and their families will be interviewed on a voluntary basis. The interviews are designed to allow in-depth exploration of the manner in which work affects family life.

The purpose of this Privacy Act system is to safeguard the collection and maintenance of personal data during and after these interviews. The George Washington University will publish a report of the findings of this study with commentaries on the process of doing family impact analysis. The report will not contain any individually identifiable data.

A new system report, dated April 6, 1979, was submitted to the Office of Management and Budget and the Congress as required by the Privacy Act. The Department requested the Office of Management and Budget to waive the 60-day advance notice requirement for this system. The waiver was granted by OMB in a letter dated April 23, 1979. Interested persons were invited to submit written data views, or arguments on or before May 17, 1979. No comments were received in response to the notice.

Therefore, the Department adopts the additional system effective May 17, 1979. Because the complete text of the new system was published in the Federal Register on April 17, 1979, and the system is adopted without change, there is no need to republish at this time.

(5 U.S.C. 552a. Sec. 3, Privacy Act of 1974 (Pub. Law 93-579, 88 Stat. 1896).)

Dated: May 18, 1979.

Guy W. Chamberlain, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-16269 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-17-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Avaition Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79-16192 appearing in Part VII of this issue.

BILLING CODE 3910-01-M

Department of the Army

Request for Public Comment on Hampton Roads Energy Co. Permit Application

AGENCY: Department of the Army.

ACTION: Notice.

SUMMARY: The Department of the Army announces that the public comment period on the Hampton Roads Energy Company permit application will close on June 22, 1979.

ADDRESS: Additional public comments should be addressed in writing to the Honorable Michael Blumenfeld, Assistant Secretary of the Army (Civil Works), Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: LTC Robert M. Faxon, Military Assistant, Office of the Assistant Secretary of the Army (Civil Works), Washington, D.C. 20310.

SUPPLEMENTAL INFORMATION: On March 19, 1979, the Chief of Engineers elevated the Hampton Roads Energy Company permit application for the construction of a petroleum refinery marine terminal complex on the Elizabeth River in Portsmouth, Virginia, to the Secretary of the Army for final decision. The Chief of Engineers, who recommended issuing the permit, was unable to resolve Department of the Interior objections to permit issuance. A July 13, 1967 Memorandum of Understanding between the Secretary of the Army and the Secretary of the Interior provides that, where the Chief of Engineers is unable to resolve remaining issues with the Department of the Interior, the permit application is to be referred to

the Secretary of the Army for decision in consultation with the Secretary of the Interior. This announcement serves notice that the public comment period on the permit application will close on June 22, 1979. Written comments furnishing information or viewpoints received prior to June 23, 1979 will be considered during the decision-making process. All materials submitted since March 3, 1975, the date of the permit application, now comprise the official permit case record and are available for review in the Office of the Assistant Secretary of the Army (Civil Works). Federal agencies have been asked to provide their final comments, if any, by May 23, 1979. In that public hearings already have been held and in that the public comment period remains open, no additional public hearings will be held. The Army hopes to complete its evaluation of the permit file by the end of July 1979.

Dated: May 18, 1979.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 79-16217 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Possible Channel Modifications to Mobile Harbor, Ala.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is to determine if there is a need and justification for modification, in any way, of the existing Federal navigation project for deep-draft shipping at Mobile Harbor, Alabama.

2. *Alternatives:* Along with a no action plan, alternatives include consideration of changes in the widths and depths of the existing channels and various methods of excavation and disposal of dredged material. Dredged material disposal options include: construct island and fill areas in upper and lower Mobile Bay; open water disposal in the bay and/or Gulf of Mexico; upland disposal; recycle material off existing disposal sites; and shoreline nourishment to abate erosion. Environmental improvement measures to be considered further in connection with navigation improvements include: restore tidal action in Chacaloochee and Polcat Bays; establish oyster beds in Bon Secour Bay; improve water circulation in Mobile Bay by creating openings in ridges paralleling the ship channel from Dog River to Mobile River; fill depressions which exist in Mobile Bay; establish a recycle plan to remove material from Blakely and Pinto Island disposal areas; and evaluate the feasibility of establishing wetland areas.

3. *Scoping Process;* a. An initial public meeting for the study was held on 25 April 1967 for the purpose of informing the public about the study and to obtain their views as to desired modifications to the existing project for Mobile Harbor. Due to a request by local interests, study efforts were directed for the next several years to an interim study that addressed the authorization and advanced engineering and design studies for the Theodore Ship Channel part of the Mobile Harbor project. A Final Environmental Impact Statement for the Theodore Ship Channel project was filed with the Council on Environmental Quality on 10 March 1977. Early in 1975 a special committee, which became known as the Mobile Harbor advisory Committee, was formed for the purpose of providing access to the planning process for a wide cross-section of the various public in the Mobile Region. A second public meeting was held at Mobile, Alabama, on 22 November 1976, with over 140 persons in attendance. In addition to the public meetings and workshops, informal working level meetings were conducted with various environmental agencies and an environmental quality committee to identify problems and needs of the area and to develop measures to enhance environmental quality.

b. Significant issues analyzed in the DEIS are associated with contruction of a wider and deeper main bay channel and the various techniques of disposal of new work material and maintenance material for the 50 year economic life of the project.

c. The Fish and Wildlife Service will submit a Fish and Wildlife Coordination Report to the Corps of Engineers prepared in accordance with the Fish and Wildlife Coordination Act of 1958 (Pub. L. 85-624), as amended. The report should discuss the impacts of the selected plan and the alternative plans on Fish and Wildlife resources including endangered and threatened species.

d. The DEIS will be circulated with a Survey Report for review and comment to Federal, State, and local agencies, citizens groups, and interested parties. A late stage public meeting will be held shortly after distribution of the documents.

4. *Scoping Meeting:* No additional scoping meetings are scheduled due to the advanced state of the DEIS and the coordination that has taken place to date.

5. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in June 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. James B. Hildreth, PD-EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: May 10, 1979.

Charlie L. Blalock,

Colonel, CE, District Engineer.

[FR Doc. 79-16278 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-CR-M

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement on Harbor Modification (Kings Island Turning Basin), Savannah Harbor, Ga.

AGENCY: U.S. Army Corps of Engineers, Savannah District.

ACTION: Notice of Intent to Prepare a Draft Supplement to a Final Environmental Impact Statement (FEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is the enlargement of the Kings Island Turning Basin in Savannah Harbor, Chatham County, Georgia. Approximately 5,000,000 cubic yards of material will be removed by hydraulic pipeline dredge.

2. *Alternatives:* Alternatives for the project include: no action, construct a new turning basin at an alternate site, backing ships downstream out of the harbor, and alternative disposal sites for dredged material.

3. *Description:* A Final EIS for the enlargement of the Kings Island Turning Basin was filed with the Council on Environmental Quality on 17 June 1976. The purpose of the Draft Supplement is to discuss changes in disposal sites for dredged material and new or altered environmental effects caused by the use of the disposal areas. The Supplement will include an evaluation of the proposed discharge of dredged material in waters of the United States pursuant to 40 CFR 230.1.

Coordination with appropriate Federal, State and local agencies and organizations has been achieved through three formal public meetings (the latest having occurred on 23 October 1974), several workshops and informal meetings. Coordination pursuant to Section 404 of the Clean

Water Act of 1977 will be undertaken, including issuance of a 404 public notice.

A scoping meeting is not planned. The Draft Supplement is scheduled to be available to the public about 1 June 1979.

ADDRESS: Questions about the proposed action and the Draft Supplement can be answered by: Grady L. McNure, Biologist, Savannah District, Corps of Engineers, P.O. Box 889, Savannah, GA 31402, telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16279 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Fiscal Year 1980 and 1981 Construction Program at the Military Ocean Terminal, Sunny Point, Beaufort County, N.C.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is twelve construction projects which will enhance the operation of the facility which has as a main function the loading of ammunition from trucks and rail cars onto ships. The construction activities consist of:

a. A paved explosive truck access road;

b. An ammunition container restuffing and consolidation facility including loading platform, metal building, and railroad track;

c. A containerized ammunition (CADS) holding area;

d. An expansion of the large transfer area and provision of a bridge crane;

e. An expansion of the railroad interchange yard;

f. Renovation and alteration of 1000 feet of wharf;

g. A suspect container area including railroad and paved road;

h. An expansion of a rail holding yard;

i. Construction of a new cargo transfer area and upgrading another transfer area;

j. An expansion of the rail car and vehicle cleaning area;

k. Construction of a paved empty-truck parking area;

l. Construction of five permanent administrative areas.

Ancillary to some of these activities is provision of utilities, storm drainage, latrines, communications, and site improvements.

2. These projects were all a part of the facility Master Plan made in 1977. That same year, an environmental impact assessment was done on all operations, and in 1972 an EIS was completed covering the dredging and disposal. The alternatives which have been considered consist of the use of other facilities or locations for some of the projects.

3. The scope of the planned EIS is only the FY 80 and 81 construction projects. Coordination with the Fish and Wildlife Service and other federal and state agencies has been initiated. Information regarding the environmental aspects of the area is invited. The significant issues to be analyzed in depth appear to be the projects' impacts on endangered species, cultural resources, and unique natural freshwater ponds.

4. The Draft EIS is scheduled to be available to the public about 30 July 1979.

5. Questions about the Draft EIS can be answered by: John Anderson, Ecologist, U.S Army Engineer District, P.O. Box 889, Savannah, GA 31402, Telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16280 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Little Lotts Creek, Flood Control Study, City of Statesboro, Bulloch County, Ga.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The primary purpose of the Little Lotts Creek Flood Control Study is to reduce flooding and associated damage in the Little Lotts Creek watershed within the City of Statesboro, Georgia. The selected plan provides for channel modification of Little Lotts Creek from Jones Avenue to a point 0.6 mile downstream of Gentilly Road. This reach has been channelized in the past, and the new work would be primarily upgrading. The excavated material will be hauled to an upland site. From that point an overflow channel would be provided around the perimeter of the Old Rushing Pond wetland which would rejoin Little Lotts Creek downstream of Old Rushing Dam. A concrete drop spillway structure would be constructed at the upstream end of the overflow channel. The purpose of the overflow channel is to allow for normal flooding of the wetland while providing for removal of excess flood waters from upstream areas. The excavated material from the overflow channel will be placed between it and the adjacent wetland in order to prevent surface water from draining into the overflow channel from the wetland. Three road crossings at South College Street, the Central of Georgia Railroad and Jones Avenue would be replaced to provide for increased flow.

2. *Alternatives:* Other alternatives which are being considered include no action, levee construction, flood retention dams, clearing and snagging, modification of bridges and culverts, floodproofing, flood plain evacuation, and floodproofing/evacuation.

3. *Scoping Process:* Public involvement to date on the Little Lotts Creek Flood Control has included coordinating the planning studies and investigation with various Federal, State, and local agencies. A public notice was issued on 12 May 1978, and a Plan Formulation Public Meeting was held on 14 June 1978 in Statesboro, Georgia. Since this DEIS is in an advanced stage of preparation, a formal scoping meeting, as defined by the Council on Environmental Quality in the 29 November 1978 Federal Register, will not be held prior to completion of the DEIS.

4. *DEIS Preparation:* It is anticipated that the DEIS will be available to the public in June 1979.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: Tom Skordal, Biologist, U.S. Army Corps of Engineers. P.O. Box 889, Savannah, GA 31402, Telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16281 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To prepare a Supplement Draft Environmental Impact Statement (SDEIS) to the Richard B. Russell Dam and Lake, Georgia and South Carolina; Final Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Supplement Draft Environmental Impact Statement (SDEIS).

SUMMARY: 1. *Proposed Action:* The purpose of this document is to supplement the Final EIS on the Russell project with discussion of the impacts to fish and wildlife and the mitigation needed to offset these losses.

2. *Alternatives:* Several alternatives will be considered, including purchasing all the proposed mitigation sites, combination of one or more sites and/or parts of sites, construction of a hatchery and purchasing all the proposed mitigation sites, construction of a hatchery and purchasing a combination of one or more sites and/or parts of sites, and no action.

3. *Scoping Process:* The U.S. Army Corps of Engineers has done a habitat evaluation procedure of the Richard B. Russell project area and proposed mitigation sites in cooperation with the U.S. Fish and Wildlife Service, Georgia Department of Natural Resources, and the South Carolina Wildlife and Marine Resources Department for developing a Fish and Wildlife Mitigation Plan for the Richard B. Russell project. The scoping process, as outlined by the Council on Environmental Quality in the 29 November 1978, Federal Register National Environmental Policy Act Regulations, will be utilized to involve other Federal, State and local agencies and other interested persons. Identification of significant issues to be addressed in the DEIS will be determined through the scoping process.

4. *Scoping Meeting:* The time, date and location of the scoping meeting has not yet been finalized.

5. *DEIS Preparation:* The SDEIS will be available to the public in October 1979, followed by a public meeting in October 1979. Federal, State and local agencies, and other interested private organizations and parties are invited to participate and submit recommendations.

ADDRESS: Questions about the proposed action and SDEIS can be answered by: Mickey Fountain, Biologist, U.S. Army Corps of Engineers, P.O. Box 889, Savannah, GA 31402, Telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16282 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Reservoir on Grand Bayou at a Point About 4.1 Miles Above the Mouth of the Waterway, near Coushatta, Red River Parish, La.

AGENCY: US Army Corps of Engineers, New Orleans District, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

SUMMARY: 1. *Proposed Action.* The proposed action is the consideration of issuance of a US Army Corps of Engineers permit for installation and maintenance of a dam, spillway, and appurtenances to form a reservoir for recreation and municipal and industrial water supply. The proposed dam will be about 5,000 feet in length and will form a 2,500-acre lake with a pool level of 138.5 feet above mean sea level. The permit applicant is Black Lake Bayou Recreation and Water Conservation District of Red River Parish, Louisiana.

2. *Consideration of Reasonable Alternatives to the Proposed Plan.* Alternatives include construction of pipelines from existing regional lakes for transport of water to the Coushatta area, construction of pumping system to retrieve water from nearby Red River, establishment of new well locations, and no action. Three of the alternatives considered may provide only partial solutions to the project objectives.

3. *Scoping Process and Public Involvement:*

a. *Publication of Public Notice.* The Corps of Engineers, New Orleans District, issued a public notice on 27 December 1977, concerning the application for a permit to construct the proposed project. Interested parties were asked to respond to the notice by 26 January 1978 and to submit comments and/or to request that a public hearing be held to consider this application. No requests for a public meeting were received.

b. *Scoping Meeting.* A scoping meeting was held on 28 September 1978. Major issues to be addressed in the DEIS were discussed during the meeting held at the Baton Rouge office of the Louisiana Department of Wildlife and Fisheries. Representatives in attendance included Louisiana Department of Transportation and Development, Office of Public Works, Grand Bayou Reservoir Commission, US Fish and Wildlife Service, Louisiana Department of Wildlife and Fisheries, Louisiana Forestry Commission, US Army Corps of Engineers, and the project consultant.

c. *Identification of Significant Issues.* Important issues which evolved from the scoping activities included project impacts to bottomland hardwoods due to construction and inundation, fish and wildlife resources losses, construction economics, socio-economic impacts, alternatives to the proposed plan (especially alternate water sources and alternatives designed to mitigate fish and wildlife losses), and mitigation and/or compensation plans.

d. *Cooperating Agency Involvement.* The US Fish and Wildlife Service will conduct a habitat evaluation procedure (HEP) in conjunction with representatives from the Corps, Louisiana Department of Wildlife and Fisheries, and the applicant. The study will assess the quantity and value of the habitats which would be affected by the proposed project, consequently affecting dependent fauna.

e. *Environmental Review and Consultation.* Periodic environmental review and consultation will be maintained with affected Federal, state, and local agencies, especially in the areas of evaluation of alternatives and mitigation proposals.

4. *Estimated Availability Date of DEIS.* The DEIS is expected to be available to the public in October 1979.

ADDRESS: Questions concerning the proposed project and the DEIS can be directed to Dr. Lloyd F. Baehr, Jr., US Army Corps of Engineers, Regulatory Assessment Section, P.O. Box 60267, New Orleans, Louisiana 70160, (504) 865-1121, extension 503.

Dated: May 18, 1979.

Thomas A. Sands,

Colonel, CE, District Engineer.

[FR Doc. 79-16283 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-GX-M

Office of the Secretary

Defense Science Board Summer Study Panel on Comprehensive Test Ban; Advisory Committee Meeting

The Defense Science Board Summer Study Panel on Comprehensive Test Ban (CTB) will meet in closed session on 19-20 June 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting has been scheduled for 19-20 June 1979 to organize the Defense Science Board Panel on the

Comprehensive Test Ban, to determine the status of the negotiations, and to determine the various agencies' viewpoint on the technical issues. This Panel will also discuss plans for future consideration of scientific and technical aspects of the CTB in preparation for the Summer Study.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Summer Study Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: May 21, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-16243 Filed 5-23-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on V/STOL Aircraft, Phase II; Change in Meeting Date

The meeting date for the Defense Science Board Task Force on V/STOL Aircraft, Phase II scheduled for a closed session on May 25, 1979 in Washington, D.C., as published in the Federal Register (44 FR 23910, dated April 23, 1979, FR Doc. 79-12488) has been changed to June 13, 1979. In all other respects, the original notice cited above remains the same.

Dated: May 21, 1979.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-16244 Filed 5-23-79; 8:45 am]

BILLING CODE 3810-70-M

Joint Strategic Target Planning Staff Scientific Advisory Group; Closed Meeting

Pursuant to the provisions of Section 10 of Public Law 92-463, effective 5 January 1973 as amended by Public Law 94-409, notice is hereby given that a closed meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska, during the period: Tuesday, July 17, 1979 through Thursday, July 19, 1979.

The entire meeting is devoted to the discussion of classified information within the meaning of Section 552b(c)(1), Title 5 of the United States Code, and therefore will be closed to the public.

Dated: May 21, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-16241 Filed 5-23-79; 8:45 am]

BILLING CODE 3810-70-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 3, 1979; Tuesday, July 10, 1979; Tuesday, July 17, 1979; Tuesday, July 24, 1979 and Tuesday, July 31, 1979 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

Dated: May 21, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-16242 Filed 5-23-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Federal Responses to Radioactive Contamination from Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79-16192 appearing in Part VII of this issue.

BILLING CODE 6450-01-M

Fossil Energy Advisory Committee; Renewal

Notice is hereby given that the Fossil Energy Advisory Committee, which was established in accordance with Public Law 86-599, the Coal Research Act, has been renewed for a two-year period ending May 16, 1981.

The renewal of the Committee has been determined necessary and in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (P.L. 92-463), the Department of Energy Organization Act (P.L. 95-91), OMB Circular A-63 (Revised), and P.L. 86-599.

Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office (202/252-5187).

Issued at Washington, D.C. on May 17, 1979.

Phillip S. Hughes,

Assistant Secretary, Intergovernmental and Institutional Relations.

[FR Doc. 79-16250 Filed 5-21-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Release No. 11]

Mandatory Oil Import Program; Oil Import Allocations and Licensing

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period April 1-30, 1979, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR Part 213 under which the allocations are made.

On April 6, 1979, the President signed Proclamation No. 4655 (44 FR 21243 (April 10, 1979)) which further amended proclamation 3279, which provides for the long term control of petroleum imports through a system of licenses subject to fees. Proclamation 4655 provided, among other changes, for the temporary suspension of both license fees and tariffs for the period April 1, 1979 through June 30, 1979. Fees and tariffs will automatically be reimposed on July 1, 1979, unless the Secretary of Energy exercises the authority delegated to him to defer re-imposition of the fees and tariffs for a maximum of two six month periods. A number of licenses were issued after the signing of and pursuant to Proclamation 4655 but prior to the issuance of the amendments to 10 CFR Part 213 implementing the changes provided for in the proclamation. The licenses issued after the implementing regulations to 10 CFR Part 213 were published (44 FR 24048 (April 24, 1979)) were issued pursuant to amended § 213.35. Licenses issued prior to the implementing regulations being published were issued without regard to amount. However, after the regulations were amended, all licenses were issued pursuant to § 213.35 with a limit of a maximum volume per license of 50 million barrels. Licenses issued prior to the promulgation of the regulation for an amount in excess of this maximum amount will be reissued in the near future for an amount not to exceed the ceiling imposed.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of April 1979.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through March 31, 1979. The releases will continue to be issued on a monthly basis.

Dated: May 15, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

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Table and Title

1—Allocations of Residual Fuel Oil—District I—10 CFR 213.15.
2—Fee-exempt allocation for Canadian oil imports—10 CFR 213.28(c).
3—Sales of fee-exempt licenses—10 CFR 213.22.
4—Licenses pursuant to Presidential Proclamation 4655.
5—Fee-paid licenses issued—10 CFR 213.35.

U.S. Department of Energy, Office of Oil Imports, Allocation Apr. 1-30, 1979

Table 1.—*Residual Fuel Oil Imports Section 213.15*

Company	Address	Allocation barrels
DISTRICT I		
Apex Oil Company	St. Louis, Mo	218,141
Ashland Oil, Inc	Ashland, Ky	150,000
Ashland Oil, Inc	Ashland, Ky	285,000
Apex Oil Company	St. Louis, Mo	400,000
Ashland Oil, Inc	Ashland, Ky	250,000
Ashland Oil, Inc	Ashland, Ky	245,000
Ashland Oil, Inc	Ashland, Ky	210,000
Charter International Oil Co	Houston, Tex	500,000
Central Petroleum Co	Bronx, N.Y	500,000
Steuart Petroleum Company	Washington, D.C	842,103
Ashland Oil, Inc	Ashland, Ky	268,000
Belcher Oil Company	Houston, Tex	1,709,192
Coastal States and/or Belcher	Houston, Tex	1,128,668
Apex Oil Company	St. Louis, Mo	215,000
Charter International Oil Co	Houston, Tex	350,000
Ashland Oil, Inc	Ashland, Ky	240,000

Table 2.—*Canadian Crude Oil Imports Section 213.28(b)*

Company	Address	Total barrels
DISTRICTS I—IV		
Mobil Oil Corporation	New York N.Y	2,920,000
Phillips Petroleum Co	Bartlesville, Okla	912,500
Sun Petroleum Products Co	Philadelphia, Pa	7,300,000
Murphy Oil Corporation	El Dorado, Ark	1,095,000
Continental Oil Company	Houston, Tex	350,000
Ashland Oil, Inc	Ashland, Ky	800,000
Ashland Oil, Inc	Ashland, Ky	200,000
Ashland Oil, Inc	Ashland, Ky	800,000
DISTRICT V		
Gulf Oil Company—U.S	Houston, Tex	600,000
Gulf Oil Company—U.S	Houston, Tex	510
Shell Oil Company	Houston, Tex	500,000

Table 3.—*Oil Import Licenses Sold Pursuant to Paragraph 213.22(d)*

Seller	Buyer	Date	Commodity	Barrels sold
DISTRICTS I-IV				
Champlin Petroleum Co	Texaco Inc	4/3/79	Crude	2,500,000
Warrier Asphalt Co	Mobile Bay	4/3/79	Crude	40,685
Warrior Asphalt Co	Mobile Bay	4/3/79	Crude	94,000

Table 3—*Oil Import Licenses Sold Pursuant to Paragraph 213.22(d)*—Continued

Seller	Buyer	Date	Commodity	barrels sold
	DISTRICTS I-IV—Continued			
Tenneco Oil Company	Texaco Inc	4/3/79	Crude	1,800,000
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	345,836
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	788,128
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	61,029
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	133,032
Delta Refining Co	Gulf Oil Co	4/4/79	Crude	26,716
Delta Refining Co	Gulf Oil Co	4/4/79	Crude	587,415
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	767,934
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	210,000
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	75,280
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	86,084
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	102,805
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	170,000
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	374,125
Oxirane Chemical Co	Arco	4/9/79	Crude	116,664
So. Union Refining	Texaco Inc	4/9/79	Crude	610,000
Southland Oil Co	Mobil Oil Corp	4/9/79	Crude	287,620
Energy Cooperatives	Coastal States	4/9/79	Crude	851,685
Energy Cooperatives	Coastal States	4/9/79	Crude	443,263
Delta Refining Co	Ind. Farm Bureau	4/6/79	Crude	85,000
Rock Island Refining	Mobile Bay	4/10/79	Crude	240,000
Rock Island Refining	Mobile Bay	4/10/79	Crude	523,766
	DISTRICT V			
Atlantic Richfield	Texaco Inc	4/9/79	Crude	452,235
Atlantic Richfield	Texaco Inc	4/9/79	Crude	147,765

Table 4.—*Allocations Pursuant to Presidential Proclamation 4655 and Section 213.15, Section 213.15 With $0.00 Fee*

Company	Date	Quantity total barrels
CRUDE OIL		
Ralph Snyder Associates	4/12/79	242,242,000
Sigmor Refining Co	4/12/79	350,000
Crown Central Petroleum	4/12/79	7,000,000
Vulcan Asphalt Refining	4/12/79	350,000
Amoco Oil Company	4/12/79	20,000,000
Amoco Oil Company	4/12/79	5,000,000
Amoco Oil Company	4/12/79	4,000,000
Amoco Oil Company	4/12/79	3,000,000
Amoco Oil Company	4/12/79	1,000,000
Amoco Oil Company	4/12/79	1,000,000
Texaco Inc	4/17/79	7,000,000
Texaco Inc	4/17/79	35,000,000
Texaco Inc	4/17/79	650,000
ATC Petroleum, Inc	4/17/79	2,500,000
ATC Petroleum, Inc	4/17/79	2,500,000
Exxon Corporation	4/17/79	45,000,000
Cirillo Brothers	4/17/79	1,000,000
Petraco Valley Oil	4/17/79	1,080,000
Mobil Oil Corporation	4/18/79	40,000,000
Champlin Petroleum Co	4/18/79	6,000,000
Chevron U.S.A. Inc	4/18/79	10,000,000
Chevron U.S.A. Inc	4/18/79	10,000,000
Seaview Petroleum	4/18/79	2,500,000
Chevron U.S.A. Inc	4/19/79	10,000,000
Chevron U.S.A. Inc	4/19/79	10,000,000
Independent Refining Corp	4/19/79	2,000,000
Marathon Oil Co	4/19/79	15,000,000
Coastal States Gas Corp	4/19/79	15,000,000
Mega Hydrocarbons	4/19/79	3,000,000
Mega Hydrocarbons	4/19/79	3,000,000
Mega Hydrocarbons	4/19/79	3,000,000
Uni Oil Inc	4/19/79	2,500,000
Energy Cooperatives Inc	4/19/79	10,878,000
Puerto Rico Sun Oil Co	4/19/79	5,185,000
Rock Island Refining Corp	4/19/79	1,600,000
Sohio Natural Resources	4/19/79	25,000,000
United Refining Co	4/19/79	559,067
Mobile Bay Refining Co	4/19/79	1,700,000
Tenneco Oil Company	4/19/79	2,000,000
Total Petroleum (NA) Ltd	4/20/79	3,000,000
Hunt Oil Company	4/20/79	1,355,900
Golden Eagle	4/20/79	5,000,000
Joseph Greenwald	4/20/79	12,000,000
Gulf Oil Company	4/20/79	5,000,000
Pheasant Ridge Petroleum Co	4/23/79	5,000,000
Powerine Oil Company	4/23/79	700,000
Indiana Farm Bureau	4/23/79	490,000

Table 4.—*Allocations Pursuant to Presidential Proclamation 4655 and Section 213.15, Section 213.15 With $0.00 Fee* —Continued

Company	Date	Quantity total barrels
CRUDE OIL—Continued		
Tesoro Petroleum Corp	4/23/79	2,000,000
Tesoro Petroleum Corp	4/23/79	500,000
Phillips Petroleum Co	4/23/79	10,000,000
Int'l Petroleum Ref. & Sup	4/23/79	2,275,000
Shell Oil Company	4/23/79	2,000,000
Shell Oil Company	4/23/79	6,000,000
Shell Oil Company	4/23/79	5,000,000
Texas City Refining	4/24/79	7,800,000
Southland Oil company	4/24/79	360,000,000
Farmland Industries (CRA)	4/24/79	3,000,000
Consumers Power Company	4/24/79	80,000
Seminole Asphalt Refining	4/24/79	1,014,000
Farmers Union Central	4/24/79	1,000,000
U.S. Oil & Refining Co	4/26/79	2,000,000
Concho Petroleum Co	4/26/79	60,000
Anshuctz Petroleum Market	4/26/79	5,000,000
Commonwealth Oil Co	4/26/79	11,583,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	1,000,000
Atlantic Richfield Co	4/26/79	1,000,000
Harold E. Weston	4/30/79	1,000,000
Vulcan Asphalt refining	4/30/79	1,500,000
Gulf Energy Refining	4/30/79	4,000,000
Asamera Oil Company	4/30/79	475,000
Sentry Refining Co	4/30/79	3,000,000
Alan H. Levine	4/30/79	1,000,000
La Gloria Oil & Gas Co	4/30/79	1,480,000
Southern Union Refining Co	4/30/79	2,500,000
Nat'l Coop. Refining Assoc	4/30/79	2,000,000
Peerless Petrochemicals	4/30/79	2,591,862
FINISHED PRODUCTS		
Breiner Oil Corporation	4/11/79	300,000
Breiner Oil Corporation	4/11/79	300,000
Ralph Snyder Associates	4/12/79	270,800,000
Amoco Oil Company	4/12/79	700,000
Amoco Oil Company	4/12/79	1,000,000
Amoco Oil Company	4/12/79	500,000
Amoco Oil Company	4/12/79	500,000
Amoco Oil Company	4/12/79	500,000
Union Petrochem	4/16/79	1,000,000
Texas Olefins Company	4/17/79	15,000
The Hertz Corporation	4/17/79	210,000
Texaco Inc	4/17/79	3,100,000
ATC Petroleum Inc	4/17/79	1,000,000
C. H. Sprague & Son	4/17/79	4,000,000
Bjornson Oil Company	4/17/79	30,000
Lido Co. of New England	4/17/79	30,000,000
Exxon Corporation	4/17/79	3,500,000
Cardon Corporation	4/17/79	385,714
Olin Corporation	4/17/79	80,000
Petraco Valley Oil	4/17/79	300,000
Phillips Puerto Rico Core	4/18/79	3,050,000
Chevron U.S.A. Inc	4/18/79	1,000,000
Chevron U.S.A. Inc	4/18/79	500,000
Chevron U.S.A. Inc	4/18/79	500,000
Pacific Resources	4/18/79	40,000,000
Ethyl Corporation	4/18/79	2,400
Northeast Petroleum Co	4/18/79	500,000
Chevron U.S.A. Inc	4/19/79	1,000,000
Industrial Solvents	4/19/79	100,000
Raymond Calhoun	4/19/79	1,000
Keyser International Inc	4/19/79	3,575
Union Carbide Caribe	4/19/79	3,310,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	100,000
Pacific Northwest Dist	4/19/79	2,500
Waller Petroleum Company	4/19/79	5,000,000
Ashland Oil, Inc	4/20/79	200,000
Golden Eagle Refining	4/20/79	1,000,000
Puerto Rico Sun Oil Co	4/20/79	250,000
Bridon Caribbean Inc	4/20/79	50
Pheasant Ridge Petroleum	4/23/79	5,000,000
Asiatic Petroleum Company	4/23/79	32
Int'l Petro. Refg. & Supply	4/23/79	1,500,000
Shell Oil Company	4/23/79	200,000
Shell Oil Company	4/23/79	1,000,000

Table 4.—*Allocations Pursuant to Presidential Proclamation 4655 and Section 213.15, Section 213.15 With $0.00 Fee*—Continued

Company	Date	Quantity total barrels
FINISHED PRODUCTS—Continued		
Antar Marine London	4/24/79	200
Steve's Oilfield Service	4/24/79	500
Spirit Foods	4/24/79	600
Hudson Lubricants	4/24/79	400
Whatcom City Garage Supply	4/24/79	873
Moore & Munger	4/24/79	30,000
Sunchem	4/24/79	20,000
Tesoro Petroleum Co	4/24/79	750,000
New England Power Co	4/25/79	4,241,600
Petro, Inc	4/25/79	100,000
BP North America	4/25/79	250,000
Wilton Howell	4/25/79	10,000
Consumers Power Company	4/25/79	1,830,000
Metropolitan Petroleum Co	4/25/79	3,500,000
Concho Petroleum Inc	4/26/79	92,000
Rico Petroleum Company	4/26/79	5,000,000
Anschuctz Petroleum Market	4/26/79	5,000,000
Commonwealth Oil Refining	4/26/79	6,006,000
Ashland Chemical Co	4/26/79	2,000
Harold E. Weston	4/30/79	1,000,000
Michael P. Lewis	4/30/79	2,000,000
Scallop Petroleum Co	4/30/79	7,500,000
C.O.D. Concrete Inc	4/30/79	24,000
Grasso Marine Service	4/30/79	300,000
Northville Industries Corp	4/30/79	2,000,000
Alan H. Levine	4/30/79	1,000,000
Time Oil Company	4/30/79	910,000

Table 5.—*Fee-Paid Licenses Issued Pursuant to Section 213.35*

Company	Date	Quantity total barrels
CRUDE OIL—BOND POSTED		
Ashland Oil, Inc	4/5/79	5,000,000
Ingram Corporation	4/6/79	400,000
Murphy Oil Corporation	4/6/79	2,000,000
Gulf Oil Company	4/10/79	10,000,000
FINISHED PRODUCTS—PREPAID		
Schofield Oil Ltd	4/3/79	1,500
Bucher Petrochemical	4/3/79	5,000
Mattiace Industries	4/3/79	2,000
S.C. Johnson & Son	4/4/79	2,000
Novamont Corporation	4/6/79	22,000
Sunchem (Div. of Sunoco)	4/11/79	24,000
Petrodyne, Inc	4/12/79	1,200
L. F. Hall Distributing	4/17/79	1,000
Apco Industries Co. Ltd	4/16/79	3,000
William G. Gray	4/19/79	50
NFO International Ltd	4/20/79	126
Pierce & Stevens Chemical	4/24/79	2,300
Americhem Corporation	4/25/79	20,000

[FR Doc. 79-15848 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

Panhandle Eastern Pipe Line Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: May 15, 1979; comments by: June 25, 1979

ADDRESS: Send comments to: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: On May 15, 1979, the Office of Enforcement of the ERA executed a Consent Order with Panhandle Eastern Pipe Line Company of Kansas City, Missouri. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Panhandle Eastern Pipe Line Company (Panhandle), with its home office located in Kansas City, Missouri, is a firm engaged in various aspects of

the petroleum industry, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Panhandle, the ERA Office of Enforcement and Panhandle entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers all claims and disputes between the Office of Enforcement and Panhandle resulting from an investigation and audit of Century Refining Company (Century), a wholly owned subsidiary of Panhandle, by the Office of Enforcement which focused on the purchases and sales of motor gasoline during the period November 1, 1973 through December 31, 1975 by Century. Such sales were covered by the Price Rule at 6 CFR 150.359 and 10 CFR 212.93.

2. Panhandle including Century does not by entering this Consent Order admit that it has violated any regulations of the DOE.

3. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Panhandle agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $280,127.98 on or before May 25, 1979. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure of a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Panhandle Eastern Pipe Line Company Consent Order." We will consider all comments we receive by 4:30 P.M., local time, on June 25, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 17 day of May 1979.

Robert D. Gerring,

District Manager of Enforcement.

[FR Doc. 79-16196 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER77-521]

Arizona Public Service Co.; Further Extension of Time

May 16, 1979.

On April 30, 1979, Arizona Public Service Company filed a motion for postponement of the filing date for briefs opposing exceptions to the initial decision issued December 19, 1978 in this proceeding. The motion states that a settlement agreement has been reached and will be filed shortly.

In order to allow time for filing of the agreement, an extension of time for filing briefs opposing exceptions is granted to and including June 29, 1979. The briefing schedule will be automatically suspended upon the filing of that agreement. Should the Commission disapprove the settlement, briefs will be due 30 days from the date of such Commission action.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16219 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No 2903]

Calaveras County Water District; Application for Preliminary Permit

May 15, 1979.

Take notice that on January 15, 1979, the Calaveras County Water District filed an application for preliminary permit, pursuant to the Federal Power Act, [16 U.S.C. § 791(a)-825(r)], for a proposed water project, to be known as the New Hogan Project, FERC No. 2903, located on the Calaveras River in Calaveras County, California. The project would affect lands owned by the U.S. Army Corps of Engineers (Corps) as well as an existing Corps dam. Correspondence with the applicant should be directed to: Mr. Steve Felte, Manager, Calaveras County Water District, P.O. Box 846, San Andreas, California, 95249 and Mr. Christopher D. Williams, McCarty & Noone, Counsellors at Law, 490 L'Enfant Plaza East, Suite 3306, Washington, D.C., 20024.

Purpose of Project—The Applicant would use a portion of the power for its proposed Western Calaveras Irrigation District Project and wholesale the remainder of the power to an electric utility in Northern California for distribution within the Northern California supply area. The utility has not yet been selected.

Proposed Scope And Cost Of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36-months for preparation of a definitive project report, including preliminary designs, geological explorations, and the collection of environmental data, to study the feasibility of installing a powerplant at the base of the Corps of Engineers existing New Hogan Dam. The Applicant estimates the cost of the proposed studies would be about $60,000.

Project Description—The Applicant's proposed New Hogan Powerplant would contain a single turbine/generator unit with an installed capacity of 2,000 kilowatts. An intake structure, lined tunnel, and steel penstock would be constructed to convey water to the powerplant. The tunnel would pass under the right abutment of the dam. The New Hogan Powerplant would generate an estimated eight million kilowatt-hours of electric energy per year.

Purpose Of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the applicant seeks a 36-month permit.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the applicant. Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions To Intervene, And Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). In determing the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest petition to intervene, or agency comments must be filed on or before July 16, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C., 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16220 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-284]

Colorado Interstate Gas Co.; Application

May 9, 1979.

Take notice that on April 24, 1979, Colorado Interstate Gas Company (Applicant), P. O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-284, an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation in interstate commerce of certain existing facilities that are located in northeast Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in recent years the natural gas supplies available on its Southern System have been declining while greater relative success has been experienced in adding new supplies along Applicant's Wyoming Line. Accordingly, states Applicant, gas supplies delivered to Denver, Colorado from sources along the Wyoming Line exceed the Denver area requirements. It is stated that on the other hand, Applicant can no longer meet all delivery requirements on its Southern System with Southern System supplies. It is further stated that this situation necessitates that gas obtained by Applicant in Wyoming and Colorado be transported to the Southern System and into Kansas, Oklahoma, and Texas. Applicant states that certain facilities have been installed at Watkins Junction near Denver to rectify this situation. Applicant states also that other facilities have been constructed or purchased by it to connect new gas supply sources in northeast Colorado. These other facilities are (1) Singletree Check Meter Station and Lateral, (2) Spindle Compressor Station and Lateral Loop, (3) Phillips-Roggen Meter Station and Lateral and (4) the Third Creek-Doherty Lateral, it is stated. Applicant states that these facilities were, and currently are, involved in the transportation of gas in intrastate commerce but that Applicant intends to place these facilities into interstate usage in the near future.

It is stated that Applicant has contracts for the purchase of gas from several producers in Colorado, which contain provisions prohibiting the transportation of the purchased gas in interstate commerce. However, states Applicant, it believes that Section 314 of the Natural Gas Policy Act of 1978 renders such provisions unenforceable.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance witht the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16221 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-42]

El Paso Electric Co.; Application

May 18, 1979.

Take notice that on May 9, 1979, El Paso Electric Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act for authority to issue up to 73,595 shares of Common Stock under its Employee Stock Purchase Plan for the period June 30, 1979, to June 30, 1984. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Common Stock will be added to the general corporate funds.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16222 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-346]

El Paso Natural Gas Co.; Petition To Amend

May 17, 1979.

Take notice that on May 9, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-346 a petition to amend the order of August 29, 1978, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to permit El Paso to gather, process, transport, and deliver additional supplies of natural gas for the account of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

El Paso states that it was authorized by the Commission in Docket No. CP78-346 to transport and deliver, on a best efforts basis, up to 10,000 Mcf of natural gas per day for the account of Natural. Under the authorized arrangement El Paso receives at one or more receipt points, natural gas acquired by Natural in the San Juan Basin area of New Mexico, it is asserted. It is stated that such gas supplies are located in proximity to El Paso's existing field gathering system and other related facilities and that Natural desires El Paso to receive the aforementioned gas supplies. It is further stated that El Paso delivers an aggregate quantity of gas equivalent to ninety percent of the total volumes of natural gas received into Natural's gathering system at a point located in the Lockridge Field, Ward County, Tex., or at such additional points to which the parties may agree.

El Paso states that since the issuance of the aforementioned order, Natural has undertaken to acquire additional gas supplies from certain acreage in the San Juan Basin area. It is stated that given the availability of such additional gas supplies and inasmuch as Natural does not have an existing gathering or transmission system in the area, Natural is desirous of having El Paso gather, process, transport, and deliver such additional supplies of gas as shall be tendered or caused to be tendered by Natural at various new receipt points pursuant to the terms and conditions of the transportation agreement between the parties. El Paso states that this agreement has been amended to provide for the addition of future receipt points which the parties may mutually agree to add to the agreement from time to time, within a specified area of interest.

El Paso specifically requests authorization, as part of the authorized best efforts transportation and delivery agreement, for the account of Natural, to transport and deliver natural gas received or caused to be received from Natural at such future receipt points as may become available to Natural in the area of interest. El Paso also requests permission to add future delivery points as may be required between the parties to keep the volumes of transportation gas in balance during the term of the transportation agreement. Additionally, El Paso requests authorization for the deletion of receipt or delivery points from the transportation agreement as may be mutually agreed to, from time to time, by El Paso and Natural.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (10 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16223 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 17, 1979.

On May 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico State Determination

FERC Control Number: JD79-4656
API Well Number: 30039054310000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #2
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4657
API Well Number: 30039052170000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #54
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79-4658
API Well Number: 3003905370000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #1
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79-4659
API Well Number: 30039055000000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #3
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.1 MMcf.

FERC Control Number: JD79–4660
API Well Number: 30039600190000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #5
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–4661
API Well Number: 30045214020000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit 252
Field: Angels Peak-Gallup Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–4662
API Well Number: 30039067750000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27–4 Unit #8
Field: Tapacito Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 6.6 MMcf.

FERC Control Number: JD79–4663
API Well Number: 30039071670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–6 Unit #26
Field: Blanco- Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 13.0 MMcf.

FERC Control Number: JD79–4664
API Well Number: 30039078250000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 #13
Field: Blanco, East-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79–4665
API Well Number: 30039053670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #7
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79–4666
API Well Number: 05067050110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #7
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–4667
API Well Number: 30039207420000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #196
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–4668
API Well Number: 30039069930000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 2705 Unit #9
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–4669
API Well Number: 30045060210000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #12
Field: Kutz, West Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79–4670
API Well Number: 05067051770000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: UTE #3
Field: Barker Dome (Paradox)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79–4671
API Well Number: 05067050470000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #3
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4672
API Well Number: 05067050120000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #1
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79–4673
API Well Number: 05067051220000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #5
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79–4674
API Well Number: 30045062110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #24
Field: Kutz, West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79–4675
API Well Number: 30039079020000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30–4 Unit #23
Field: Blanco, East-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.6 MMcf.

FERC Control Number: JD79–4676
API Well Number: 30039056020000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #115
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4677
API Well Number: 30039059080000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #41
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79–4678
API Well Number: 30045059220000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #48
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79–4679
API Well Number: 30039205340000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 170
Field: Otero Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79–4680
API Well Number: 30039209200000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #58
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79–4681
API Well Number: 30039212660000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit 90
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.4 MMcf.

FERC Control Number: JD79–4682
API Well Number: 30039078130000
Section of NGPA: 1–8
Operator: El Paso Natural Gas Company
Well Name: SJ 30–4 Unit #21
Field: Blanco, East-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.7 MMcf.

FERC Control Number: JD79–4683
API Well Number: 30039079920000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 32–5 Unit Unit #7
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company

FERC Control Number: JD79–4684
API Well Number: 30039209580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company

Well Name: SJ28-6 Unit 198
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.9 MMcf.

FERC Control Number: JD79-4685
API Well Number: 30045212180000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit 237
Field: Angels Peak-Gallup Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4686
API Well Number: 30039073980000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-7 Unit 6
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4687
API Well Number: 30045063990000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfanito Unit 95
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-4688
API Well Number: 30039069630000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-7 Unit 5
Field: Blanco South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-4689
API Well Number: 30039209880000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-6 Unit 199
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 10.6 MMcf.

FERC Control Number: JD79-4690
API Well Number: 30045211240000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Stewart 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 6.6 MMcf.

FERC Control Number: JD79-4691
API Well Number: 30045216830000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Duff 5
Field: Fulcher Kutz-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4692
API Well Number: 30045206780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hartman 2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 21.5 MMcf.

FERC Control Number: JD79-4693
API Well Number: 30039059390000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hill 4
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4694
API Well Number: 30045055370000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: MCMANUS 5
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4695
API Well Number: 30045096470000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey B2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-4696
API Well Number: 30045211330000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Sunray H2
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 13.0 MMcf.

FERC Control Number: JD79-4697
API Well Number: 30045087880000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Martin 3R
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-4698
API Well Number: 30045208920000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mansfield 10
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.4 MMcf.

FERC Control Number: JD79-4699
API Well Number: 30039208940000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #246
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4700
API Well Number: 30039207550000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #202
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-4701
API Well Number: 30039207470000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #204
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 13.1 MMcf.

FERC Control Number: JD79-4702
API Well Number: 30039209650000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #82
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.9 MMcf.

FERC Control Number: JD79-4703
API Well Number: 30045209860000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Case 13
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-4704
API Well Number: 3003905444000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Gilcrease 1
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79-4705
API Well Number: 30039073990000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-7 Unit 9
Field: Blanco, Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-4706
API Well Number: 30039071430000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-7 Unit 4
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.5 MMcf.

FERC Control Number: JD79-4707
API Well Number: 30039072070000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-5 Unit #21
Field: Blanco, Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79-4708
API Well Number: 30045132360000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #6
Field: Kutz, West Pictured Cliffs Gas
County: San Juan

Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79–4709
API Well Number: 30039054980000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: LIndrith Unit #6
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79–4710
API Well Number: 30045059540000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #13
Field: Kutz, West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79–4711
API Well Number: 30039053860000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #51
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79–4712
API Well Number: 30039054110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: LIndrith Unit #50
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4713
API Well Number: 3004522434
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 1–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 466 MMcf.

FERC Control Number: JD79–4714
API Well Number: 3004522433
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 2–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 380 MMcf.

FERC Control Number: JD79–4715
API Well Number: 3004522385
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Thompson 2–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 330 MMcf.

FERC Control Number: JD79–4716
API Well Number: 30045061270000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bolack C 15
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 16.0 MMcf.

FERC Control Number: JD79–4717
API Well Number: 30045092420000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Morris A 3
Field: Aztex Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79–4718
API Well Number: 30045110780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mudge 23
Field: Basin Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–4719
API Well Number: 30045086050000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: White-Cornell 7
Field: Fulcher Kutz Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4720
API Well Number: 30045132100000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Stewart 5
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79–4721
API Well Number: 05067050130000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #2
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79–4722
API Well Number: 30039207460000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #201
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–4743
API Well Number: 30039055190000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #48
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 15.7 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concering a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-16230 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Determination by a Jurisdiction Agency Under the Natural Gas Policy Act of 1978

May 16, 1979.

On May 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of New Mexico, U.S. Geological Survey, CD Conservation Division

FERC Control Number: JD79–4498
API Well Number: 30045055530000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mc Manus 2
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79–4499
API Well Number: 30039069140000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27–5 Unit #11
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79–4500
API Well Number: 30045092990000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Ludwick 2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 9.0 MMcf.

FERC Control Number: JD79–4501
API Well Number: 30045211130000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Heaton 29 PC
Field: Aztec Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79–4502
API Well Number: 30039204100000
Section of NGPA: 108
Operator: El Paso Natural Gas Company

Well Name: Vaughn 17 CH
Field: Otero-Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4503
API Well Number: 30039068480000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Harrington 3
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79-4504
API Well Number: 30045211640000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Tapp 9
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-4505
API Well Number: 30045073670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lackey B 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79-4506
API Well Number: 30045086540000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lloud E 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-4507
API Well Number: 30045074780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: McCulley-Johnston 1
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser:
Volume: 6.2 MMcf.

FERC Control Number: JD79-4508
API Well Number: 30045068240000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Thompson C 7
Field: Kutz West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 10.0 MMcf.

FERC Control Number: JD79-4509
API Well Number: 30039068450000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-4 Unit #4
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79-4510
API Well Number: 30039078670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 Unit #5
Field: Blanco, East Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-5411
API Well Number: 30039078750000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 Unit #11
Field: Blanco, East Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.8 MMcf.

FERC Control Number: JD79-4512
API Well Number: 30039070620000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-5 Unit #6
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79-4513
API Well Number: 30039078390000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 Unit #26
Field: Blanco, East Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4514
API Well Number: 30-045-22428
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Atlantic 5A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 252 MMcf.

FERC Control Number: JD79-4515
API Well Number: 30-045-22734
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil 3A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 320 MMcf.

FERC Control Number: JD79-4516
API Well Number: 30-045-22734
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil 3A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 87 MMcf.

FERC Control Number: JD79-4517
API Well Number: 30045067010000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Day B 1
Field: Blanco, South Pictured Cliffs Gas
County: San Juan
Purchaser:
Volume: 9.0 MMcf.

FERC Control Number: JD79-4518
API Well Number: 30045064700000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Morris 1
Field: Fulcher Kutz Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-4519
API Well Number: 30045062250000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: H. L. Gentle 1
Field: Blanco, South Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4520
API Well Number: 30045111870000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mudge 24
Field: Basin Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4521
API Well Number: 30045055000000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Quitzau 2
Field: Ballard Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79-4522
API Well Number: 30039063230000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Vaughn #1
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79-4523
API Well Number: 30039205070000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Vaughn 21
Field: Otero Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.6 MMcf.

FERC Control Number: JD79-4524
API Well Number: 30045071950000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Omler 7
Field: Fulcher Kutz Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 16.1 MMcf.

FERC Control Number: JD79-4525
API Well Number: 30-045-22545
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 4-A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 379 MMcf.

FERC Control Number: JD79-4526
API Well Number: 30-045-22545
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 4A (Pictured Cliffs)
Field: Blanco
County: San Juan

Purchaser: El Paso Natural Gas Company
Volume: 166 MMcf.

FERC Control Number: JD79-4527
API Well Number: 30-045-22833
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Jones 1-A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 160 MMcf.

FERC Control Number: JD79-4528
API Well Number: 30-045-22417
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 3A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 553 MMcf.

FERC Control Number: JD79-4529
API Well Number: 30-045-22833
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Jones 1-A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 160 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-16232 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

Exeter Exploration Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 16, 1979.

On May 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Geological Survey

FERC Control Number: JD79-4530
API Well Number: 49-009-21364
Section of NGPA: 103
Operator: Exeter Exploration Company
Well Name: Brent Shogrin Federal 1
Field: Mike's Draw
County: Converse
Purchaser: Phillips Petroleum Company
Volume: 36 MMcf.

FERC Control Number: JD79-4531
API Well Number: 05-103-8082
Section of NGPA: 102
Operator: David M. Munson
Well Name: David M. Munson 30-1-99
Field:
County: Rio Blanco
Purchaser: Northern Natural Gas Co.
Volume: 500 MMcf.

FERC Control Number: JD79-4532
API Well Number: 49-037-30942-00
Section of NGPA: 103
Operator: Smokey Oil Company, Inc.
Well Name: Diamond Shamrock Federal #32-26
Field: Wamsutter
County: Sweetwater
Purchaser: Colorado Interstate Gas Company
Volume: 72.0 MMcf.

FERC Control Number: JD79-4533
API Well Number: 49-041-20139
Section of NGPA: 103
Operator: Phillips Petroleum Company
Well Name: Bruff A No. 1
Field: Bruff Area
County: Uinta
Purchaser: Mountain Fuel Supply Co.
Volume: 250 MMcf.

FERC Control Number: JD79-4534
API Well Number: 43-047-30235
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 34-28 30235
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4535
API Well Number: 49-103-20649
Section of NGPA: 102
Operator: Prenalta Corporation
Well Name: Prenalta Federal 32-34
Field: Kirby Draw
County: Fremont
Purchaser: Northern Gas Company
Volume: 107 MMcf.

FERC Control Number: JD79-4536
API Well Number: 49-103-20687
Section of NGPA: 102
Operator: Prenalta Corporation
Well Name: Prenalta Federal 31-34
Field: Kirby Draw
County: Fremont
Purchaser: Northern Gas Company
Volume: 16 MMcf.

FERC Control Number: JD79-4537
API Well Number: 49-009-21374
Section of NGPA: 103
Operator: Exeter Exploration Company
Well Name: Brent Shogrin Federal #2
Field: Mike's Draw
County: Converse
Purchaser: Phillips Petroleum company
Volume: 36 MMcf.

FERC Control Number: JD79-4538
API Well Number: 05-103-7994
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Piceance Creek Unit No. T27-17G
Field: Piceance Creek
County: Rio Blanco
Purchaser: Northwest Pipeline Corporation
Volume: 335 MMcf.

FERC Control Number: JD79-4539
API Well Number: 49-035-20467
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Johnson Ridge S-26-33 20467
Field: Johnson Ridge
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79-4540
API Well Number: 43-047-30236
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 35-15 30236
Field: Chapita Wells
County: Unitah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4541
API Well Number: 43-047-30263
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 36-26 30263
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4542
API Well Number: 43-047-30233
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 32-21
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4543
API Well Number: 43-047-30291
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 44-10 30291
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4544
API Well Number: 43-047-30288
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 41-18 30288
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4545
API Well Number: 49-035-20477
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Johnson Ridge S-27-33 20477
Field: Johnson Ridge
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79-4546
API Well Number: 05-045-6120

Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #13-6
Field: Twin Buttes
County: Garfield
Purchaser: Northwest Pipeline Corporation
Volume: 110 MMcf.

FERC Control Number: JD79-4547
API Well Number: 05-045-6163
Section of NGPA: 103
Operator: Walter S. Fees, Jr.
Well Name: Ferguson-Gov't #3-9
Field: Bridle
County: Garfield
Purchaser: Northwest Pipeline Corporation
Volume: 40 MMcf.

FERC Control Number: JD79-4548
API Well Number: 49-009-21279
Section of NGPA: 103
Operator: Haynie & Mayer
Well Name: #2-24 Lansdale Federal
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 64 MMcf.

FERC Control Number: JD79-4549
API Well Number: 49-009-21269
Section of NGPA: 103
Operator: H & M Oil Producers, Inc.
Well Name: Federal Lansdale #3-24
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 78 MMcf.

FERC Control Number: JD79-4550
API Well Number: 49-009-21290
Section of NGPA: 103
Operator: Haynie & Mayer
Well Name: #4-13 Lansdale Federal
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 111 MMcf.

FERC Control Number: JD79-4551
API Well Number: 49-005-2472800
Section of NGPA: 102
Operator: Getty Oil Company
Well Name: Hartzog "B" No. 1
Field: Hartzog Draw
County: Campbell
Purchaser: Phillips Petroleum Co.
Volume: 20 MMcf.

FERC Control Number: JD79-4552
API Well Number: 05-103-08012
Section of NGPA: 103
Operator: Lawrence Barker, Jr.
Well Name: Government #16
Field: South Douglas Creek
County: Rio Blanco
Purchaser: Northwest Pipeline Corporation
Volume: 68 MMcf.

FERC Control Number: JD79-4553
API Well Number: 49-009-21267
Section of NGPA: 103
Operator: Haynie & Mayer
Well Name: #1-24 Lansdale Federal
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 115 MMcf.

FERC Control Number: JD79-4554
API Well Number:
Section of NGPA: 108
Operator: Merrion Oil & Gas & Robert L. Bayless, Agent
Well Name: Book Cliffs #3
Field: Book Cliffs
County: Grand
Purchaser: Northwest Pipeline Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79-4555
API Well Number: 05-103-7996
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Piceance Creek Unit No. T63-12G
Field: Piceance Creek
County: Rio Blanco
Purchaser: Northwest Pipeline Corporation
Volume: 335 MMcf.

FERC Control Number: JD79-4556
API Well Number: 43-047-30264
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 37-11 30264
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4557
API Well Number: 43-047-30265
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 38-9 30265
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4558
API Well Number: 43-047-30287
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 40-27 30287
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79-4559
API Well Number: 49-035-20424
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: RU 20 20424
Field: Ruben
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79-4560
API Well Number: 05-045-6165
Section of NGPA: 103
Operator: Walter S. Fees, Jr.
Well Name: Gov't. #2-3-8-104
Field: Bridle
County: Garfield
Purchaser: Northwest Pipeline Corporation
Volume: 1.0 MMcf.

FERC Control Number: JD79-4561
API Well Number: 49-023-20186
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: SCU 3-13 20186
Field: Steed Canyon
County: Lincoln
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79-4562
API Well Number: 49-023-20258
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: SCU 5-14 20258
Field: Steed Canyon
County: Lincoln
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79-4563
API Well Number: 49-035-20414
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: FCU 8-20 20414
Field: Fogarty Creek
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79-4564
API Well Number: 05-045-6121
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #21-11
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 110 MMcf.

FERC Control Number: JD79-4565
API Well Number: 05-045-6154
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #21-3
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 119 MMcf.

FERC Control Number: JD79-4566
API Well Number: 05-045-6147
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #20-7
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 82 MMcf.

FERC Control Number: JD79-4567
API Well Number: 05-045-6142
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #20-6
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 219 MMcf.

FERC Control Number: JD79-4568
API Well Number: 05-045-6161
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #31-3
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 355 MMcf.

FERC Control Number: JD79-4569
API Well Number: 05-045-6139
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #30-11
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 197 MMcf.

FERC Control Number: JD79-4570
API Well Number: 05-045-6140
Section of NGPA: 103
Operator: Palmer Oil & Gas Company

Well Name: Federal #30-3
Field: South Canyon
County: Garfield
Purchaser: Southwest Gas Corporation
Volume: 130 MMcf.

FERC Control Number: JD79-4571
API Well Number: 05-045-6144
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #29-16
Field: South Canyon
County: Garfield
Purchaser: Southwest Gas Corporation
Volume: 219 MMcf.

FERC Control Number: JD79-4572
API Well Number: 05-045-6110
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #28-7
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 185 MMcf.

FERC Control Number: JD79-4573.
API Well Number: 05-045-6107.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #27-11.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 650 MMcf.

FERC Control Number: JD79-4574.
API Well Number: 05-045-6145.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #13-7.
Field:
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 110 MMcf.

FERC Control Number: JD79-4575.
API Well Number: 05-045-6123.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #12-16.
Field:
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 64 MMcf.

FERC Control Number: JD79-4576.
API Well Number: 49-035-30422.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: Johnson Ridge S-24-28 20422.
Field: Johnson Ridge.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79-4577.
API Well Number: 49-035-30422.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: Johnson Ridge S-25-34 20417.
Field: Johnson Ridge.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79-4578.
API Well Number: 05-103-07983.
Section of NGPA: 103.
Operator: Lawrence Barker, Jr.
Well Name: Government #7/3.
Field: South Douglas Creek.
County: Rio Blanco.
Purchaser: Northwest Pipeline Corporation.
Volume: 52 MMcf.

FERC Control Number: JD79-4579.
API Well Number: 49-035-30420.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: RU 19-24 20420.
Field: Ruben.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79-4580.
API Well Number: 05-077-8122.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #32-3.
Field: Bar X.
County: Mesa.
Purchaser: Northwest Pipeline Corporation.
Volume: 91 MMcf.

FERC Control Number: JD79-4581.
API Well Number: 49-035-30497.
Section of NGPA: 103.
Operator: Belco Petroleun Corporation.
Well Name: Johnson Ridge S 28-28.
Field: Johnson Ridge.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79-4582.
API Well Number: 49-035-20475.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: NLBU 25-5 20475.
Field: North Labarge Unit.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79-4583.
API Well Number: 49-023-20228.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: SCU 1-15 20228.
Field: Steed Canyon Unit.
County: Lincoln.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79-4584.
API Well Number: 05-045-6143.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #15-15.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 105 MMcf.

FERC Control Number: JD79-4585.
API Well Number: 05-045-6158.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #18-2.
Field:
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 46 MMcf.

FERC Control Number: JD79-4586.
API Well Number: 05-045-6160.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #8-3.
Field: South Canyon.
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 46 MMcf.

FERC Control Number: JD79-4587.
API Well Number: 05-045-6155.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #33-15.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 128 MMcf.

FERC Control Number: JD79-4588.
API Well Number: 05-045-6112.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #28-13.
Field: South Canyon.
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 720 MMcf.

FERC Control Number: JD79-4589.
API Well Number: 49-035-20425.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: RU 21-13 20425.
Field: Ruben.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations, may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-16233 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP74-142]

Mountain Fuel Resources, Inc.; Petition To Amend

May 17, 1979.

Take notice that on April 27, 1979, Mountain Fuel Resources, Inc. (Applicant), Suite 1540, 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP74-142 a petition to amend the order of April 4, 1974, as amended on July 30, 1975, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for a

change in the maximum daily quantity of gas transported for Rocky Mountain Natural Gas Company (Rocky Mountain) from 9,000 Mcf per day at 15.025 psia to 6,500 Mcf per day at 14.73 psia, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.[1]

Applicant states that it filed a tariff change in Docket No. RP78-61 designed to increase the jurisdictional revenues derived from sales under Rate Schedule No. 1 by a total dollar amount of $640,667. Applicant further states that the rate filing was accepted for filing by Commission order on June 15, 1978 and suspended for five months until November 16, 1978. The rate change, after reinstatement, did not include any change in the level of the rate charged under Applicant's Rate Schedule T-1 pursuant to which Applicant transports gas for Rocky Mountain, it is stated.

Applicant indicates that settlement conferences between Applicant, Rocky Mountain, and Commission Staff have resulted in a negotiated level of total transmission costs to be allocated to the transportation service. The settlement agreement requires a reduction in the maximum daily quantity as indicated in the service agreement, states Applicant. As a result of these negotiations, Applicant and Rocky Mountain have executed a transportation service agreement dated April 19, 1979 that provides for a reduction in the maximum daily quantity tendered for transportation from the current 9,000 Mcf per day at 15.025 psia to 6,500 Mcf per day at 14.73 psia.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-16224 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket Nos. ER76-828 and EL78-18]

Nantahala Power & Light Co., et al.; Intent To Act

May 18, 1979.

On April 13, 1979, the Commission staff filed a motion requesting the Commission to reject a brief on exceptions filed on April 3, 1979, in the above-captioned proceeding by Tapoco, Inc. A response to the staff's motion was filed by the town of Highlands, North Carolina on April 26, 1979, and by Tapoco on April 30, 1979. The Commission intends to issue an order on the staff's motion in the near future. Therefore the motion shall not be deemed denied under section 1.12(e) of the Commission rules.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-16225 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CP79-56 through CP79-60]

Negative Threshold Determination of Environmental Impact of Northwest Alaskan Pipeline Co. et al.; Natural Gas Pipeline Project Proposed

May 21, 1979.

Notice is hereby given that the Federal Energy Regulatory Commission (FERC) environmental staff, consistent with the requirement of the National Environmental Policy Act of 1969 that all agencies of the Federal Government evaluate the environmental impact of all Federal actions significantly affecting the quality of the human environment, has analyzed the impact of a natural gas pipeline proposed by Northwest Alaskan Pipeline Company (Northwest Alaskan), Pacific Interstate Transmission Company (Pac Interstate), Pacific Gas Transmission Company (PGT), Northwest Pipeline Corporation (Northwest), and El Paso Natural Gas Company (El Paso) in Docket Nos. CP79-56 through CP79-60 to determine if an environmental impact statement should be prepared.

On November 7, 1978, the five pipeline companies filed with the FERC applications for a certificate of public convenience and necessity to transport 240,000 Mcfd of natural gas to be imported from Alberta, Canada, for sale in southern California. The importation was approved by Commission order of June 7, 1978, conditioned upon future certification, under Section 7 of the Natural Gas Act, of (1) the facilities needed to effect the importation and (2) the jurisdictional sales, exchange, and transportation agreements necessary to deliver the gas to southern California.

Under the present proposal, the gas would be purchased from Pan Alberta Gas, Ltd. and imported from Alberta by Northwest Alaskan. It would be sold at the Kingsgate, British Columbia-Eastport, Idaho, border to Pac Interstate. The gas would be transported through PGT facilities from Kingsgate to Stanfield, Oregon. From there, the gas would be transported through a Northwest pipeline system to Ignacio, Colorado. At that point, the gas would be transported and/or displaced through El Paso facilities to a tie-in with Southern California Gas Company facilities at Topock, California. Modifications to all these existing systems would be necessary.

The applicants contend that this proposal constitutes a prebuilding of the Western Leg of the Alaska Natural Gas Transportation System (ANGTS), which was selected by the President, ratified by Congress, and conditionally certificated by the FERC (December 16, 1977, Docket No. CP75-96 *et al.*) to transport Alaskan natural gas to the lower 48 states. However, of the facilities proposed in these applications, only 160 miles of 36-inch diameter pipeline looping along the existing PGT right-of-way between Kingsgate and Stanfield are part of the Western Leg approved by the President and the Congress. Neither the remaining 350 miles of 30- and 24-inch diameter proposed pipeline looping Northwest's existing system, nor the other proposed modifications to existing systems, would be part of the system conditionally certificated by the FERC to transport Alaskan natural gas.

The environmental staff of the FERC has made a systematic, interdisciplinary review of the proposal and has made a threshold determination that the proposal would not significantly affect the human environment, principally because it would involve pipeline looping and compressor additions to existing facilities. Since the environmental impact would be a continuation of existing impact rather than a major new impact, the environmental staff concludes that an environmental impact statement is not required. Furthermore, the environmental staff believes this

proposal to transport gas to southern California would not be in the public interest if the same volumes could better be transported by prebuilding the Western Leg, which has already been approved as the environmentally superior route for delivering gas to the California market.

The conclusions of the environmental staff are only one element in determining the Commission staff's position on whether this proposal should be approved. The staff must also compare the economic feasibility of the proposal to the alternatives and resolve legal questions on the Western Leg the President selected. The staff will examine all these issues and evaluate the proposal on its merits before making its final recommendation to the Commission.

The full statement of reasons on which this negative threshold determination is based can be obtained from the FERC Office of Public Information, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16218 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-20273 and RP66-7, et al.]

Ohio Fuel Gas Co., et al.; Amendment to Petition

May 15, 1979.

In the matter of The Ohio Fuel Gas Company (Docket Nos. G-20273 & RP66-7), Texas Gas Transmission Corporation (Docket Nos. G-18886, RP61-15 & RP67-10), Panhandle Eastern Pipe Line Company (Docket Nos. RP68-15 & RP69-3), and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Docket Nos. G-11980, G-17166 & G-19983).

Take notice that on April 16, 1979, Columbia Gas Transmission Corporation (Columbia) filed an amendment to its July 16, 1976 petition for an order releasing refunds held in escrow.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 May 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16220 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

Phillips Petroleum Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

New Mexico Oil Conservation division

FERC Control Number: JD79-5657
API Well Number: 30-025-03996
Section: 108
Operator: Phillips Petroleum Company
Well Name: Monument No. 1
Field: Eumont Queen Yates—7 Rivers
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 1.1 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential uncer 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16231 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2889]

San Bernardino Valley Municipal Water District; Application for Preliminary Permit

May 15, 1979.

Take notice that on November 20, 1978, the San Bernardino Valley Municipal Water District filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. Section 791(a) 825(r)] for a proposed water power project to be known as the Lytle Creek and Foothill Pipelines Hydroelectric Project, FERC Project No. 2889, located in San Bernardino County of the Lytle Creek and Foothill Pipelines which convey water from the afterbay of the Devil Canyon Power Plant, a part of the California Aquaduct Project, FERC Project No. 2426. The proposed project would affect the interest of interstate commerce. Correspondence with the Applicant should be directed to: Mr. Jack A. Beaver, General Manager, San Bernardino Valley Municipal Water District, P.O. Box 4906, San Bernardino, California 92412; and Mr. James W. Dilworth, General Counsel, San Bernardino Valley Municipal Water District, P.O. Box 4906, San Bernardino, California 92412.

Description of Project—The project that would be studied under the permit would consist of four developments as follows: (a) the Lytle Creek Power Plant would have an installed capacity of 1,300 kW and would utilize water diverted from the Lytle Creek Pipeline through a 1,000-foot-long penstock to the site of a proposed water treatment plant; (b) the Sweetwater Power Plant would have an installed capacity of 875 kW and would be located adjacent to an existing percolation basin on a trunout from the Foothill Pipeline; (c) the Waterman Canyon Power Plant would be located adjacent to an existing percolation basin, would have an installed capacity of 4,000 kW and would utilize water diverted from the Foothill Pipeline through a 150-foot-long penstock; and (d) the Santa Ana Low Power Plant would have an installed capacity of 1,400 kW and would replace one of three fixed cone valves and dissipation basins on a turnout from the Foothill Pipeline.

The estimated average annual output from the proposed project would be 20.8 million kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental assessment. The cost of the foregoing activities, together with preparation of an environmental impact report, obtaining agreements with various federal, state, and local agencies, preparing a license application and final geologic exploration and field surveys, is estimated by Applicant to be about $933,000.

Proposed Use of Project Power—Project energy would be sold wholesale

to either a municipality or a private utility for distribution in Southern California.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly form the Applicant. Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's rules of practice and procedure 18 C.F.R. § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 16, 1979. The Commission's addess is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16227 Filed 5-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-305]

Transcontinental Gas Pipe Line Corp.; Application

May 17, 1979.

Take notice that on May 10, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-305 and application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for two years of up to 185,600 dekatherms (dt) equivalent of natural gas per day for Public Service Electric and Gas Company, South Jersey Gas Company. Delmarva Power & Light Company, Long Island Lighting Company, Philadelphia Gas Works, Eastern Shore Natural Gas Company, Elizabethtown Gas Company, Consolidated Edison Company of New York, Inc., and the City of Greer, South Carolina (Distribution Customers), all as more fully set forth in the application which is on file with the Commission and open to public inspection

Applicant states that it, as agent for the Distribution Customers, has executed two gas purchase agreements, dated April 24, 1979, with Delhi Gas Pipeline Corporation (Delhi) to purchase the gas proposed to be transported. The first agreement pursuant to Subpart C of Part 157 of the Commission's Regulations provides for an initial period of 60 days and for a filing with the Commission for an additional 60-day period, it is said. It is indicated that the Delhi gas would be delivered from the following five sources: Caddo (East Texas), Laredo-Lopeno (South Texas), Saxet (South Texas), Live Oak (South Texas), and Cheyenne (Oklahoma). It is further indicated that other pipelines would transport the gas from certain of the sources to Applicant's system.

It is asserted that Delhi's obligation to deliver and sell and Applicant's obligation to receive and purchase gas is on a best efforts, interruptible basis. Further, it is stated that under the first agreement, for the gas to be delivered, Delhi would charge Applicant a commodity price per million Btu's equal to the maximum lawful price specified in Section 271.202 of Subpart B of the interim regulations under the Natural Gas Policy Act of 1978 (NGPA), and in addition, to the commodity price, Applicant would pay Delhi a gathering and transportation fee for all gas delivered at each delivery point as follows: Caddo—20.0 cents per million Btu's; Laredo-Popeno—26.76 cents per million Btu's; Saxet—20.0 cents per million Btu's; Live Oak—20.0 cents per million Btu's; and Cheyenne—no fee.

It is stated that the second agreement between Applicant, as agent, and Delhi, provides for a purchase pursuant to Section 311(b) of the NGPA for a term of 20 months beginning on the date of commencement of deliveries thereunder with deliveries to commence upon termination of the purchases under the first agreement. It is indicated that the gas would be delivered from one source. Delhi's Cheyenne system in Oklahoma and that it is estimated that Delhi would have surplus gas of approximately 75,000 Mcf per day for sale to Applicant. The gas would be delivered by Delhi for the account of Applicant at the existing point of interconnection of the facilities of Delhi and Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) in Roger Mills County, Oklahoma, and Kansas-Nebraska would then transport the gas to Panhandle Eastern Pipe Line Company's (Panhandle) system, with Panhandle transporting it to Trunkline Gas Company's (Trunkline) system and Trunkline transporting it to Applicant's system, it is stated. Delhi's obligation to sell and deliver gas to or for the account of Applicant is on a best efforts, interruptible basis.

It is further stated that under the second agreement, for the gas to be sold Delhi would charge Applicant a price per million Btu's equal to Delhi's weighted average acquisition cost of gas purchased by Delhi on its Cheyenne system and in addition to such price, Applicant would pay Delhi a fee of 13.77 cents per million Btu's as compensation for gathering, treating, and transporting the gas.

Applicant states that it would receive the gas from Delhi and the intermediate pipelines and would deliver equivalent quantities (less quantities retained by Applicant for compressor fuel and line loss make-up) to the Distribution Customers at existing delivery points. Further, Applicant states that for all quantities transported, the Rate Zone 3 Distribution Customers would pay Applicant initially a rate of 24.34 cents per dt and the City of Greer, which is the only Rate Zone 2 Distribution Customer in this arrangement, would pay Applicant initially a rate of 23.84 cents per dt.

Applicant states that the Distribution Customers have advised it that the gas to be transported hereunder would be used for boiler fuel in order to displace fuel oil.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16228 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP75-30, RP74-20 and RP74-83]

United Gas Pipe Line Co.; Extension of Time

May 16, 1979.

On May 2, 1979, United Gas Pipe Line Company filed a petition for reconsideration and motion for stay of the Order Denying Rehearing issued on April 5, 1979, in this proceeding.

In order to allow the Commission time to act on the petition and motion, an extension of time is granted until June 4, 1979 for complying with Ordering Paragraphs (B) and (C) of Opinion No. 16.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16229 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Governments of the United States and Switzerland and the Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following transfers from Switzerland to the United Kingdom (Windscale) and France (La Hague) for the purpose of reprocessing.

Names of reactor and owner	Number of elements	Kgs of U	U-235%	Kgs of Pu
Muehleberg, Bernische Kraftwerke AG(BKW).	63 to La Hague	11,244	.85	90
Beznau 1, Nordostschweizerische Kraftwerke AG(NOK).	40 to Windscale	12,708	.89	112

The Department of Energy has received letters of assurance from the Swiss Government that the recovered uranium and plutonium will not be transferred from the Windscale and La Hague sites without prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 18, 1979.

Harold D. Bengelsdorf

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-16359 Filed 5-22-79; 12:38 pm]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FR 1233-6]

Science Advisory Board; Environmental Health Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Environmental Health Committee of the Science Advisory Board will be held at 9:00 a.m. on June 13, 1979, in Conference Room 529A, Hubert H. Humphrey Building, 220 Independence Avenue, S.W., Washington, D.C.

The principal purpose of the meeting will be (1) to discuss and take appropriate action on the report of the Committee's Study Group on Pesticide Tolerances; (2) to be briefed on and discuss Agency plans to intensify environmental health research efforts in fiscal year 1980 ("public health initiative"); and (3) to be briefed on and discuss Agency plans to utilize the findings and recommendations of the Science Advisory Board's Health Effects Research Review Group which, in compliance with provisions of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Pub. L. 95-155), evaluated and prepared a report on the Agency's health effects research efforts. The Agenda will also include briefings and discussions on other Agency or Science Advisory Board Activities and topics of current or future interest to the Committee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S.

Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. June 8, 1979. Please ask for Mr. Kenneth B. Goggin or Mrs. Ilene Stein. The telephone number is (703) 557-7720. For further information please call this number or (202) 755-0263.

Richard M. Dowd,

Staff Director, Science Advisory Board.

May 21, 1979.

[FR Doc. 79-16328 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-312]

FCC Action on Annual Employment Report (Form 395)

May 18, 1979.

The FCC denied two petitions for reconsideration of its recent amendment of Form 395, the Annual Employment Report. Form 395 asks for a breakdown of employees by several job categories and by specified race and ethnic groups and sex. The Commission recently amended the form in several respects, including the instructions to be followed by broadcasters in listing their employees in the various job categories. For each job category there is a general description and general examples (which were not changed) followed by a list of illustrative job titles specific to broadcasting. These examples had been changed somewhat, and the two petitions questioned the listing of certain specific job titles.

In noting that the petitions did not raise any substantive problems, the Commission stated that the lists of job titles following the definition of each job category are not all inclusive and that proper categorization of an employee depends on the kind and level of his responsibility. It added that individual licensees with specific questions about filling out their forms could address them to the Renewal and Transfer Division, Equal Employment Opportunity Unit, telephone (202) 632-7069, for speedy answers.

Action by the Commission May 18, 1979. Commissioners Ferris (Chairman), Lee, Quello, Wasburn, Fogarty and Brown, with Commissioner Jones not participating.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-16268 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

Hazle-Tone Communications, Inc., and Schuylkill Mobile Fone Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: April 27, 1979.

Released: May 9, 1979.

In re Applications of Hazle-Tone Communications, Inc. (CC Docket No. 79-95 File No. 20400-CD-P-78) for a Construction Permit to establish a new two-way station to operate on frequency 454.150 MHz in the Domestic Public Land Mobile Radio Service at Hazleton, Pennsylvania, and Schuylkill Mobile Fone, Inc., (CC Docket No. 79-96; File No. 20500-CD-P-(2)-78) for a Construction Permit to establish additional facilities for two-way station KGA589 to operate on frequency 454.150 MHz in the Domestic Public Land Mobile Radio Service at Pottsville, Pennsylvania.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority is the application of Hazleton Communications, Inc., File No. 20400-CD-P-78, for a Construction Permit to establish a new two-way station to operate on frequency 454.150 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Hazleton, Pennsylvania, and the application of Schuylkill Mobile Fone, Inc., (Schuylkill), File No. 20500-CD-P-(2)-78, to establish additional facilities for two-way DPLMRS station KGA589 to operate on frequency 450.150 MHz at Pottsville, Pennsylvania. These applications are electrically mutually exclusive.

2. Because these applications are electrically mutually exclusive, a comparative hearing must be held to determine which applicant would better serve the public interest. *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945). We find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed facilities, except as otherwise noted below.

3. In a request for Special Temporary Authority (STA) dated March 21, 1979 to operate DPLMRS stations KGA589 and KWU268 at Pottsville, Pennsylvania, Mr. Robert C. Green, President of Schuylkill, advised the Bureau that on July 14, 1975, he purchased the 50% stock interest in the company, previously held by Mr. Robert J. Porter. This transaction, which gave Mr. Green 100% interest in Schuylkill Mobile Fone, was completed without filing an application for or receiving prior Commission approval of this transfer of control, as required pursuant to section 310(d) of the Communications Act of 1934, as amended,[1] and section 21.39 of the Commission's Rules.[2] Schuylkill's request for STA states that Mr. Green was not aware that the Commission's consent to this transaction was required and that failure to file such an application was due solely to ignorance. The request further states that the first Licensee Qualifications Report (FCC Form 430) filed by Schuylkill on February 17, 1976, listed Robert C. Green as "sole stockholder" and that there has never been any intention to deceive or mislead the Commission as to the company's ownership.

4. Despite Mr. Green's statements in Schuylkill's request for STA, the Bureau is of the opinion that substantial questions are raised by the facts presented to us in that request and that these questions must be resolved in a hearing in which evidence may be adduced as to the facts and circumstances surrounding the unauthorized transfer of control. Also to be considered is what effect, if any, the unauthorized transfer of control has on Schuylkill's character or other qualifications to be a Commission licensee. Therefore, we will designate these issues for the hearing which we have already determined is required under the *Ashbacker* doctrine.

5. Accordingly, it is ordered, That the above-referenced application of Hazletone Communications, Inc., File No. 20400-CD-P-78, and the application of Schuylkill Mobile Fone, Inc., File No. 20500-CD-P-(2)-78, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine the facts and circumstances surrounding the unauthorized transfer of control of Schuylkill from Mr. Robert J. Porter to Mr. Robert C. Green;

(b) to determine, in light of the evidence adduced on issue (a) above, what effect the transfer should have on Schuylkill's basic or comparative qualifications to be a Commission licensee;

(c) to determine and compare the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(d) to determine and compare, the areas and populations that each applicant will serve within the prospective 39 dbu contours, based upon the standards set forth in Section

[1] 47 U.S.C. 310(d).

[2] 47 C.F.R. 21.39.

21.504(a) of the Commission's Rules,[3] and to determine and compare the need for the proposed services in said area; and

(e) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience and necessity.

6. It is further ordered, That, with respect to issues (a) and (b) the burden of proof and the burden of proceeding with the introduction of evidence are placed on Schuylkill Mobile Fone, Inc.

7. It is further ordered, That, with respect to issues (c) and (d) the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants, and, that with respect to issue (e) the burden of proof is placed jointly on the applicants.

8. It is further ordered, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

9. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

10. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

Larry F. Darby,

Chief, Common Carrier Bureau.

[FR Doc. 16267 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

[FCC 79-301; BC Docket No. 79-115; File No. BR-1130]

Sonderling Broadcasting Corp., Radio Station WOL; Renewal of License; Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: May 10, 1979.

Released: May 17, 1979.

By the Commission:

1. The Commission has before it for consideration the above-captioned application and its inquiry into the operation by Sonderling Broadcasting Corporation (SBC) of Radio Station WOL, Washington, D.C.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or to remain a licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. Accordingly, It is Ordered, That the captioned application Is Designated for a Hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent order, upon the following issues:

(a) To determine whether, and if so the extent to which, the licensee allowed its employees to subordinate the public interest to their own interests in the selection of programming content.

(b) To determine whether and if so the extent to which, the licensee, or its employees, violated Sections 317 or 508 of the Communications Act of 1934, as amended.

(c) To determine all the facts and circumstances concerning the licensee's submission of false documents to the Commission's staff.

(d) To determine whether the licensee exercised adequate supervision and control over WOL, Washington, D.C.

(e) To determine, in light of the evidence adduced under the preceding issues, whether the licensee possesses the requisite qualifications to be or remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. It is Further Ordered, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a bill of particulars with respect to issues (a) through (d).

5. It is Further Ordered, That the Broadcast Bureau proceed with the initial presentation of evidence with respect to issues (a) through (d) and that the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

6. It is Further Ordered, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221 of the Commission's Rules, in person or by its attorney, shall file with the Commission, within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. It is Further Ordered, That the applicant herein pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by Section 1.594(g) of the Rules.

8. It is Further Ordered, That the Secretary of the Commission send copies of this Order by Certified Mail—Return Receipt Requested to Sonderling Broadcasting Corporation, licensee of Radio Station WOL, Washington, D.C.

William J. Tricarico

Secretary, Federal Communications Commission.

[FR Doc. 79-16215 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

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[3] Section 21.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in Section 21.504(b) are the proper bases for establishing the location of service contours (F50, 50) for the facilities involved in this proceeding.

FEDERAL RESERVE SYSTEM

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL DEPOSIT INSURANCE CORPORATION

Joint Notice of Proposed Policy Statement

Correction

In FR Doc. 79-11799 appearing at page 23121 in the issue for Wednesday, April 18, 1979 make the following corrections:

(1) The heading should be corrected as stated above.

(2) On page 23121, column two, the following paragraph should be inserted before the last paragraph:

All outstanding consumer loans delinquent in excess of 60 days but less than 120 days shall be classified substandard.

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 16, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable, and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 11, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Communications Commission

The FCC requests clearance of a new Form 753-T, Temporary Restricted Radiotelephone Operator Permit. On December 7, 1978, the Commission adopted Docket 78-846 which implemented a system of temporary authorizations for ship stations in Maritime Services. That order, however, did not extend temporary authority to Aviation and Broadcast Services where these permits are also used. Section 13.11 of the Commission's Rules and Regulations have been amended to implement a system of temporary permits for Restricted Radiotelephone Operators. Form 753-T will be required to be completed by respondents and will serve as a 60-day temporary permit while Form 753, Application for Restricted Radiotelephone Operator Permit by Declaration, which must be completed and mailed at the same time, is being processed by the Commission and a license issued. FCC estimates respondent burden will average two minutes per temporary permit and that approximately 180,000 temporary permits will be completed by respondents annually.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-16251 Filed 5-23-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food Drug Administration, the National Oceanic and Atomospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79-16192 appearing in Part VII of this issue.

BILLING CODE 4110-03-M

Office of the Secretary

Ethics Advisory Board; Meeting

Notice is hereby given that the Ethics Advisory Board will hold a meeting on June 15-16, 1979, at the Center for Disease Control, Building 1, Room 207, 1600 Clifton Road, Atlanta, Georgia 30333. The meeting will convene at 9:00 a.m. on June 15 and at 9:00 a.m. on June 16, and will be open to the public subject to limitations of available space.

The agenda for Friday, June 15, will include issues related to disclosure of: (1) preliminary data from clinical trials and related biomedical research and (2) data collected by the Center for Disease Control concerning epidemiological investigations. The agenda for Saturday, June 16, will include discussion of problems associated with: (1) the conduct of certain clinical trials; and (2) research involving the collection of human ova fertilized *in vivo*.

Requests for information should be directed to Ms. Roberta Garfinkle, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Maryland 20016, telephone, 301-496-7776.

Dated May 3, 1979.

Charles R. McCarthy,

Staff Director, Ethics Advisory Board.

[FR Doc. 79-16317 Filed 5-23-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-705; FDAA-584-DR]

Louisiana; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Louisiana (FDAA-584-DR), dated May 2, 1979.

DATED: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of major disaster for the State of Louisiana dated May 2, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 1979.

For Individual Assistance only, the Parishes of: La Salle, Pointe Coupea, and St. Martin.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-16238 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD-707; FDAA-584-DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FDAA-584-DR), dated May 2, 1979, and related determinations.

DATED: MAY 2, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the act of May 22, 1974, entitled "Disaster Relief Act of 1974" (98 Stat. 143); notice is hereby given that, in a letter on May 2, 1979 to the Secretary, the President declared a major disaster as follows: I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning on or about April 20, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Louisiana.

Public Assistance will be limited to the costs of emergency protective measures for the specific areas of the State designated as eligible for such assistance.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. William H. Mayer of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster.

The Parishes of: Ascension, Assumption, Catahoula, East Baton Rouge, Iberville, Livingston, and St. Tammany.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Federal Disaster Assistance Administration.

[FR Doc. 79-16236 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD-706; FDAA-577-DR]

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA-577-DR), dated April 16, 1979.

DATED: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of major disaster for the State of Mississippi dated April 16, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Individual Assistance and Public Assistance: Adams County.

For Individual Assistance and also for Federal assistance to disaster-damaged public schools under Public Law 81-815 and Public Law 81-874, as appropriate: Panola County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance; No. 13.477, School Construction, and No. 13.478, School Maintenance and Operation Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-16237 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. D-79-565]

New York Regional Office; Designation and Delegation of Authority

Section A. Designation of Acting Regional Administrator

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of, or vacancy in the position of, the Regional Administrator, with all the powers, functions and duties redelegated or assigned to the Regional Administrator; Provided, that no official is authorized to serve as Acting Regional Administrator, unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator
2. The Regional Counsel
3. The Director, Office of Community Planning and Development
4. The Director, Office of Fair Housing and Equal Opportunity
5. The Director, Office of Regional Housing
6. The Director, Office of Regional Administration
7. Regional Director of Program Coordination

Effective Date: This designation and delegation shall be effective as of May 1, 1979.

Thomas Appleby,

Regional Administrator, New York Regional Office.

[FR Doc. 79-16273 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-01M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico; McGregor Range Grazing Management Program; Notice of Intent To Prepare an Environmental Impact Statement

May 17, 1979.

The Department of the Interior, Bureau of Land Management, Las Cruces District, New Mexico will prepare an Environmental Impact Statement on a proposed grazing program. The statement will analyze livestock grazing on 515,000 acres of the McGregor Range. The McGregor Range was withdrawn by the Department of the Army for use as an artillery and missile firing range. BLM administers the grazing and wildlife habitat management programs on the Range in cooperation with the U.S. Army, Fish and Wildlife Service, and the New Mexico Department of Game and Fish. The statement will also analyze several alternatives to the proposal.

A public meeting on the scope of the McGregor Range Grazing Management Program will be held at Alamogordo, New Mexico, June 28, 1979, and will begin at 7:00 p.m. The purpose of the public meeting is threefold: (1) to inform the public of those aspects BLM proposes to analyze in the statement (the proposed action and tentative alternatives based on existing data and knowledge of the area); (2) gather resource information from the public; (3) consider concerns, problems and/or issues important to the public for possible inclusion into the statement. Comments received at the public meeting will be used to clarify the proposed action and alternatives.

The contact for McGregor Range Grazing Management Program Environmental Impact Statement is: Ed Webb, Bureau of Land Management, Las Cruces District Office, 1705 N. Valley Drive, P.O. Box 1420, Las Cruces, New

Mexico 88001, telephone: Commercial Number (505) 523-5571: FTS 572-0209.

Arthur W. Zimmerman,

State Director.

[FR Doc. 79-16216 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

Salt Lake District Grazing Advisory Board

Notice is hereby given in accordance with Pl-92-463 that a meeting of the Salt Lake District Grazing Advisory Board will be held on June 19, 20, and 21, 1979.

The meeting will begin at 10:00 A.M. at the BLM compound, Randolph, Utah.

The agenda for the meeting will be:

June 19

10 a.m. to 5 p.m.—Tour area covered by the Randolph Environmental Statement.

6:30 p.m. to 9:00 p.m.—Summary presentation of the contents of the Environmental Statement.

June 20

8 a.m. to 5 p.m.—Continue tour of Environmental Statement area.

6:30 p.m. to 7:30 p.m.—Public comments.

7:30 p.m. to 10 p.m.—Finalize summary presentation of contents of Environmental Statement. Advisory board develop recommendations.

June 21

8 a.m. to 12 noon—Advisory board finalize recommendations.

The meeting is open to the public. Interested persons may make oral statements between 6:30 and 7:30 P.M. on June 20th or file written statements for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119, by June 13, 1979. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Dated: May 18, 1979.

Frank W. Snell,

District Manager.

[FR Doc. 79-16289 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, approved on the dates indicated, are available for information in the Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area represented.

Outer Continental Shelf Protraction Diagrams

Description	Approval date
NN 1-2	Feb. 18, 1977.
NN 1-4 Bowers Seamount	Do.
NO 1-4	Do.
NO 1-8	Do.
NO 7-7 Pratt Seamount	Do.
NO 7-8	Do.

2. Copies of these diagrams are available for two dollars ($2.00) per sheet from the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

Robert J. Brock,

Acting Manager, Alaska Outer Continental Shelf Office.

[FR Doc. 79-16284 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

Lewistown District Grazing Advisory Board; Meeting

In accordance with Section 403 of Pub. L. 94-579, the Federal Land Policy and Management Act, notice is given of the following Board meeting.

Name: Lewistown District Grazing Advisory Board.

Date: June 28 and 29, 1979.

Place: Lewistown District Office; Airport Road, Lewistown, Montana.

Time: 1 to 5 p.m.; 8 a.m. to 12 noon.

Proposed Agenda:

June 28, 1979:

1:30 to 2:00 pm—Election of Officers.

2:00 to 5:00 pm—Use of Range Betterment Funds for the Missouri Breaks Environmental Statement Area.

June 29, 1979:

8:00 to 9:00 am—Wilderness update and its impact on AMP development.

9:00 to 9:30 am—AMP development in the Prairie Pothole area.

9:30 to 10:30 am—AMP development and management of scattered public land.

10:30 to 11:00 am—Grazing regulations and AMP development.

11:00 to 11:30 am—Public comment period.

11:30 to 12:00 noon—Agenda, time, and place of next meeting.

This is the second meeting of the Board which shall serve to offer advice and make recommendations regarding commercial livestock grazing in the development of allotment management plans (AMP's) and the utilization of range-betterment funds with respect to commercial livestock grazing within the Lewistown District.

Carl V. Lind,

Acting District Manager.

May 18, 1979.

[FR Doc. 79-16286 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

[M 43334]

Montana; Order Providing for Opening of Public Land

May 17, 1979.

In an exchange of lands under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Principal Meridian, Montana

T. 4 N., R. 27 E.,
Sec. 24, NE¼ and S½;
Sec: 25, All; and
Sec. 36, Lots 1 and 2, NW¼ and N½SW¼.

The area described contains 1,440.11 acres.

The lands lie within Yellowstone County and are located 7 miles north of Shepherd and 20 miles northeast of Billings. These are prairie lands situated between the Bull Mountains and the Yellowstone River. Soils are dry sandy loams arising from sandstone formations. Principal land uses are livestock grazing and limited recreation.

Subject to valid existing rights, the lands described herein will be open to operation of the public land laws, but not the mining and mineral leasing laws, at 10 a.m. on July 3, 1979. The minerals were not reconveyed to the United States.

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

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-16285 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 36738]

New Mexico; Notice of Application

May 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Stevens Oil Company has applied for one 3-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 8 S., R. 30 E.,
Sec. 31, SE¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 32, SE¼NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 1.08 miles of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-16288 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 36743]

New Mexico: Notice of Application

May 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Merdian, New Mexico

T. 20 S., R. 29 E.,
Sec. 7, NE¼SW¼

This pipeline will convey natural gas across 0.159 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of wheather the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-16287 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67916]

Wyoming: Notice of Application

May 15, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 112 W.,
Sec. 30, S½SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, W½NW¼, SE¼NW¼, E½SW¼, NW¼SW¼ and SW¼SE¼.

The proposed pipeline will transport natural gas from their Shute Creek #1 well located in the SW¼SE¼ section 32 in a generally northwesterly direction to a point of connection with Northwest Pipeline Corporation's Trunk Line "A" located in the SW¼SE¼ section 30, T. 23 N., R. 112 W., Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187, N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-16290 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Contract With the Eastern Municipal Water District; Availability of Contract

The Department of the Interior, through the Bureau of Reclamation, intends to enter into a contract with Eastern Municipal Waster District, Hemet, California, pursuant to the Small Reclamation Projects Act of 1956, as amended.

Eastern Municipal Water District has proposed the construction of water supply facilities which, when integrated with its existing water supply and distribution systems, will supplement the district's present water supply with northern California water from the State Water Project. In order to utilize the water, which will be made available to the district through the State Aqueduct and facilities of Metropolitan Water District, approximately 93 miles of pipeline, 11 booster pumps, and 8 connections will be constructed. The water will be used to meet agricultural, municipal, and industrial water needs within the district.

The project is estimated to cost approximately $24,058,000. The district will contribute $6,358,000 and the United States will loan the district $17,700,000. The loan will be repaid by the district over a period of 38 years.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the date of this notice.

For further information and to obtain a copy of the proposed contract, please contact Mr. George Blake, Contract and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293-8536.

Dated: May 15, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-16362 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-09-M

Contract With the Rainbow Municipal Water District, Fallbrook, Calif.; Availability of Contract

The Department of the Interior, through the Bureau of Reclamation, intends to enter into a contract with Rainbow Municipal Water District, Fallbrook, California, for Rainbow Annexation No. 3, pursuant to the Small Reclamation Projects Act of 1956, as amended.

Rainbow Municipal Water District has proposed the construction of water supply facilities which would connect to the San Diego Aqueduct and provide a water supply for agricultural and domestic purposes in Annexation No. 3. The district's proposal includes the construction of a pumping plant, two steel tanks, three pressure stations and approximately 20 miles of pipeline.

The project is estimated to cost approximately $4,791,000. The district will contribute $1,791,000, and the United States will loan the district not to

exceed $3,000,000. The loan will be repaid by the district in 40 annual installments with interest on the interest bearing portions of the loan.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the date of this notice.

For further information and to obtain a copy of the proposed contract, please contact Mr. George Blake, Contract and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293-8536.

Dated: May 15, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-15983 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-09-M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 23, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announces publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announce publicly that it is considering the grant applications submitted by:

1. Legal Services Corporation of Iowa in Des Moines, Iowa to serve Lyon, Osceola, Dickinson, Emmett, Kossuth, Palo Alto, Marshall, Poweshiek, Louisa, Van Buren, and Buena Vista Counties.

2. Kansas Legal Services in Topeka, Kansas to serve Franklin, Miami, Jewell, Republic, Mitchell, Cloud, Lincoln, Clay and Morris Counties.

3. Land of Lincoln Legal Assistance Foundation in Alton, Illinois to serve Hamilton and White Counties.

4. Western Nebraska Legal Services in Scottsbluff, Nebraska to serve Merrick, Howard, Sherman, Gosper, Clay, Webster and Harlan Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 50504.

Alice Daniel,

Acting President.

[FR Doc. 79-16276 Filed 5-23-79; 8:45 am]

BILLING CODE 6820-35-M

Advisory Presidential Search Committee Meeting

TIME AND DATE: 10:30 a.m., Thursday, May 31, 1979.

PLACE: Law Offices of Kutak, Rock & Huie, 1101 Connecticut Avenue, Suite 1100, Washington, D.C.

STATUS: Closed Meeting—(The meeting will be closed as authorized by 5 U.S.C. 552b(c)(2) and will be devoted to interviews with and discussion of the qualifications of candidates for appointment as president.)

MATTERS TO BE CONSIDERED:

1. Interviews with candidates for appointment as president.

2. Discussion of qualifications of candidates for appointment as president.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 376-5100.

Issued: May 21, 1979.

Alice Daniel,

Acting President.

[FR Doc. 79-16398 Filed 5-23-79; 8:45 am]

BILLING CODE 6280-35-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for June 22. The meeting will be in Room 4200 of the Dirksen Senate Office Building, located at First Street, N.W., and Constitution Avenue, N.W., Washington, D.C., and will begin at 9:00 a.m.

The agenda will include the following items:

1. Approval of the minutes of the May 7, 1979, Commission meeting.

2. Review and discussion of public comments pertaining to the draft Plan of Study.

3. Adoption of a Plan of Study for the National Commission on Air Quality.

The Commission invites additional public comments on the draft Plan of Study to be submitted in writing by June 8, 1979. Twenty-five (25) copies of the comments should be sent to Mr. Richard A. Penna, Acting Assistant Director for Research, The National Commission on Air Quality, 499 South Capitol Street, S.W., Second Floor, Washington, D.C. 20003.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 634-7138.

William H. Lewis, Jr.,

Director, National Commission on Air Quality.

May 21, 1979.

[FR Doc. 79-16340 Filed 5-23-79; 8:45 am]

BILLING CODE 6820-98-M

NATIONAL SCIENCE FOUNDATION

Improving NSF Regulations: Report in Response to Executive Order No. 12044, "Improving Government Regulations"

AGENCY: National Science Foundation.

ACTION: Final Report.

SUMMARY: The National Science Foundation is publishing this final report as required by Executive Order 12044. It discusses the scope of NSF regulations, the procedure for formulating rules, and procedural changes in response to E.O. 12044.

AGENCY CONTACT: Mr. Arthur J. Kusinski, Office of the General Counsel, National Science Foundation, Washington, D.C. 20550. (202) 632-4396.

FURTHER INFORMATION: The draft report was published for public comment in the Federal Register on Friday, June 2, 1978 (43 FR 24216). Following public comment and review by the Office of Management and Budget, this final report is being published. The only public comment received was from the Department of Justice. No significant changes have been made to the report as published in draft form.

Report Required by Section 5 of Executive Order 12044

Introduction

Section 5 of Executive Order 12044 requires each agency to review its existing process for developing regulations and to prepare a report describing that process and any changes planned in order to comply with the criteria set forth in the Executive Order. This report provides this information for the National Science Foundation.

Scope of NSF Regulations and the Process by Which They Are Made

NSF is not a regulatory agency. Hence, its regulations and rules, other than those dealing with internal agency management or personnel matters, are generally concerned with the processing and administration of grants and other

awards for the support of scientific research, science education programs, science policy analysis and similar activities, primarily at universities and other nonprofit organizations. Some of these are published in the Code of Federal Regulations (CFR). Most, however, are contained in the NSF Grants Policy Manual which, while published in the Federal Register, is not in CFR format. NSF also has a system of internal issuances as set forth in NSF Circular No. 1. Most of these deal with internal matters, but some establish policies that may impact on recipients of NSF awards. Most such policies, however, are normally reflected in the Grants Policy Manual.

The Grants Policy Manual was published in the Federal Register in draft form for public comment. Drafts were also widely circulated to interested university groups. Revisions will also be made available for public comment by Federal Register publication and by other means.

Any regulations intended for publication in the Code of Federal Regulations are also published for comment in the Federal Register before they are made final.

NSF regulations and rules are normally cleared throughout the Foundation and reviewed or signed by the Director.

The National Science Foundation's policies and activities, unlike those of other Federal agencies, are subject to the review of a 25-member National Science Board appointed by the President. The Board includes persons who come from most of the groups affected by NSF programs and policies. The Board thus acts as a further check to ensure that NSF rules and regulations are reasonable.

Changes in the NSF Rulemaking Process as a Result of Executive Order 12044

The Foundation believes that its rule-making procedures substantially comply with the requirements of Executive Order 12044, and that no significant procedural changes are required. However, more formal documentation will be required. As part of the normal review process, the Office of General Counsel and the Assistant Director for Administration will both review for compliance with specific E.O. 12044 requirements.

NSF is about to issue a new internal circular, as set forth in Appendix A to this report, to implement the Executive Order.

Proposed New Criteria for Defining Significant Agency Regulations

The Foundation believes that section 2(d) of E.O. 12044 basically formalizes what the Foundation has generally sought to accomplish. Accordingly, rather than attempt to draw arbitrary distinctions, the new circular includes broad definitions of "significant" and "nonsignificant" regulations and a requirement that the NSF Management Counsel review each proposed regulation within the scope of E.O. 12044 to determine whether it is significant or non-significant.

Proposed Criteria for Identifying Regulations Requiring Regulatory Analysis

Given the nature of our programs and the recipients of NSF awards, we do not believe any of our regulations will have sufficient economic impact to require the formal regulatory analysis described in section 3 of E.O. 12044. For example, NSF was exempted from the requirements of OMB Circular 107. Hence, we have no plans to develop formal criteria.

Review of Existing Regulations

Because NSF regulations are few, specific criteria for review of existing regulations seem superfluous. NSF will review all of its regulations periodically on a cycle of two to three years.

The Foundation's first agenda was published in the Federal Register on December 15, 1978 (43 FR 58656). The agenda described the regulations presently under review and the legal basis for their issuance.

Richard C. Atkinson,

Director.

May 17, 1979.

NSF Circular No.

Administration and Management

Subject: Procedures for the Development and Approval of NSF Regulations

1. *Purpose.* This Circular establishes procedures for initiating new NSF regulations or changing existing ones that have an impact on awardees, principal investigators, and others outside the Government. It also implements the requirements of Executive Order 12044, "Improving Government Regulations", dated March 23, 1978.

2. *Cancellation.* None.

3. *Scope.* This Circular applies to all Foundation-wide regulations except those dealing with NSF management or personnel or NSF procurements and those determined to fall within section 6(b)(1) or (2) of Executive Order 12044, i.e., regulations concerned with formal rule-making provisions of the Administrative Procedure Act or military or foreign affairs functions of the United States. This Circular does not apply to the following:

a. Publication of program brochures, announcements, program solicitations, RFP's.;

b. Individual directorate internal issuances;

c. Descriptive or informational literature that merely reflects regulations authoritatively published elsewhere, e.g., *Grants for Scientific Research or some revisions to the Grant Policy Manual;*

d. Revisions of the procedures for submission of proposals or applications, e.g., page limit on proposals, proposal cover page, and budget format changes;

e. Policies or procedures that implement rules issued by other Government agencies (provided the NSF changes do not depart significantly from those rules), e.g., NSF policies and procedures that implement OMB Circulars; GSA Property Regulations; or the like.

f. NSF policies and procedures that implement statutory requirements which leave the Agency no significant discretion.

4. *Policy.* The procedures described in paragraph 6 must be followed before issuance of any NSF regulation to which this Circular applies that may affect the manner in which recipients or potential recipients of NSF awards conduct the administration of such awards.

5. *Definitions:* a. *Significant Regulations* are those that the NSF determines are likely to have major impact on NSF awardees, principal investigators, and others outside the Government. (In many instances such regulations would be reviewed by the National Science Board.)

b. *Non-significant Regulations* are those which are determined by NSF to be merely technical amendments of an existing regulation or a regulation of minor consequence to the NSF awardees, principal investigators, and others outside the Government.

6. *Procedures.* a. *Initiating a New NSF Regulation or Amending an Existing One.* When it becomes necessary to initiate a new regulation or amend an existing one to which this Circular applies, the initiating office should prepare a proposed draft or outline of the regulation or amendment. It should also prepare a memorandum explaining why the regulation or amendment is needed, the direct or indirect effects of the regulation and alternative approaches (if any) under consideration. The draft regulation or amendment and the memorandum should be forwarded for action to the Chairman of the Management Council through the appropriate Assistant Director or other official reporting to the Director.

b. *Management Council Action.* The Management Council will review the proposed regulation and accompanying documentation and will decide whether the regulation or amendment is significant or nonsignificant.

(1) *Significant Regulation or Amendment.* If the Management Council determines that the proposed regulation or amendment is significant, the initiating office will prepare a memorandum to the Director and the Executive Council through the appropriate Assistant Director or other official reporting

to the Director and the Chairperson of the Management Council. The memorandum should outline tentative plans for obtaining public comment on the regulation and target dates for completing steps in the development of the regulation. Depending on the importance and potential impact of the regulation, consideration will also be given to holding open conferences or public hearings, sending notices or proposed regulations to publications likely to be read by those affected, and notifying interested parties or associations of interested parties directly. In addition, this memorandum should include a tentative plan for evaluating the regulation after its issuance. In most cases this evaluation need not be elaborate or formal. It may consist of nothing more than a plan for staying informed of awardee reactions and experience under the regulation. The initial memorandum to the Management Council discussed in paragraph 6.a., along with any Management Council comments or suggestions, should be included in the material forwarded to the Director and the Executive Council.

(2) *Non-Significant Regulations or Amendments.* If the Management Council determines that the proposed regulation or amendment is non-significant, it may recommend the implementation of the new or amended regulation and the appropriate approval routing should be followed.

c. *Director's Initial Approval and Public Participation.* If the Director, after reviewing the proposal and with the advice of the Executive Council, agrees with the Management Council's determination that the regulation or amendment is both necessary and significant, arrangements will be made for giving the public meaningful opportunity to comment on such regulations or amendments. The proposed regulation will be published by the initiating office in the Federal Register for public comment. In the case of an unusually lengthy item, however, notice on where the complete document can be obtained may be published in the Federal Register. At least 60 days should normally be allowed for public comment.

Also, at this stage (or earlier) the Director may seek the advice and comments of the National Science Board on the proposed regulation or amendment.

d. *Director's Final approval and Issuance of Significant Regulations.* After receiving, considering, and preparing a response to comments received from the public on the proposed new regulation or amendment, a final draft will be prepared for the Director's approval. If the Director approves the final draft of the regulation or amendment, the Director will determine whether NSB approval or concurrence is required. Following any Board approval or concurrence and his own approval of the final draft, the Director will make a formal determination in the following format:

Determination on Need for Regulation

1, ———————— Director of the National Science foundation, have determined as required by Executive Order 12044 that the regulation *(title of regulation)* (1) is needed; (2) that its direct and indirect effects have been adequately considered; (3) that alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen; (4) that public comments have been considered and an adequate response has been prepared; (5) that the regulation is written in plain English and is understandable to those who must comply with it; (6) that an estimate has been made of the new reporting burdens or recordkeeping requirements (if any) necessary for compliance with the regulation; (7) that the name, address and telephone number of a knowledgeable agency official is included in the publication; and (8) that a plan for evaluating the regulation after issuance has been developed.

(Signature)

(Date)

Once the Director has given final approval for the issuance of significant regulations or amendments, they will be published in the appropriate publication, i.e., Federal Register *Code of Federal Regulations, Grant Policy Manual,* etc. Once this is accomplished, the new regulation or amendment may be published elsewhere without repeating these procedures.

7. *Emergency Waiver.* Procedures outlined in paragraph 6 for initiating a new regulation or changing an existing one may be waived by the Director in whole or whole or in part if he determines that a regulation must be issued in response to an emergency or under a short-term (30–60 days) statutory or judicial dealine. Where the Director makes such a waiver, a statement of the reasons for it shall be published in the Federal Register.

8. *Periodic Review of Published Regulations.* a. The Assistant Director for Administration, in coordination with the Office of the General Counsel, shall be responsible for the periodic review of the need for existing published regulations of the Foundation. The AD/A shall also be responsible for preparation of the schedule and agenda of significant regulations under development or review, required by sec. 2(a) or Executive Order 12044.

b. The agenda will be reviewed by the Management Council and recommended for final approval and signature by the Director for publication in the Federal Register.

c. The agenda will be published semi-annually. The agenda will describe the regulations being considered by the Foundation, the need for and legal basis for the action being taken, and the status of regulations previously listed on the agenda.

[FR Doc. 79-16311 Filed 5-23-79; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published April 20, 1979 (44 FR 23609). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the June 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT.

Subcommittee and Working Group Meetings

**Safeguards and Security,* May 23, 1979, Washington, DC. The Subcommittee will discuss recent safeguards events, advice from its consultants and the 1979 Review and Evaluation of the NRC Safety Research Program. Notice of this meeting was published May 11.

**Evaluation of Licensee Event Reports,* May 24–25, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports. Notice of this meeting was published May 11.

**Combination of Dynamic Loads,* May 30, 1979, Washington, DC. Postponed idenfinitely.

**Reliability and Probabilistic Assessment,* May 31-June 1, 1979, Los Angeles, CA. RESCHEDULED TO JUNE 2, 1979, WASHINGTON, DC.

**Implications of the Three Mile Island, Unit 2 Accident,* May 31-June 1, 1979, Washington, DC. The Ad Hoc Subcommittee will continue its review of the accident which occurred at this

Station on March 28, 1979 and will consider long-term implications of the accident on nuclear power plant design. Notice of this meeting was published May 16.

Reliability and Probabilistic Assessment, June 2, 1979, Washington, DC. The Subcommittee will discuss detailed procedures to ensure the proper and effective use of risk assessment theory, methods, data development and statistical analyses by the Staff; also, the 1979 Review and Evaluation of the NRC Safety Research Program. As time permits, the Subcommittee will discuss the reliability of BWR (boiling water reactor) piping with regard to the frequency of appearance of stress corrosion cracking.

Three Mile Island Nuclear Station, Unit 2, June 6–7, 1979, Middleton, PA. The Subcommittee will meet with representatives of the NRC Staff and the Metropolitan Edision Company, et al, to discuss details of the March 28, 1979 accident at this Station.

Reactor Fuel, June 11–12, 1979, Washington, DC. The Subcommittee will discuss the current and proposed NRC research programs in the area of fuel behavior for consideration of a report to Congress on NRC research.

Operating Reactors, June 13, 1979, Washington, DC. The Submittee will review a request for a power level increase at the Millstone Nuclear Power Station, Unit 2, and will discuss the 1979 Review and Evaluation of the NRC Safety Research Program.

Regulatory Activities, June 13, 1979, Washington, DC. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

Emergency Core Cooling Systems (ECCS), June 19–20, 1979, Washington, DC. The Subcommittee will review ECCS models for small breaks in Babcock and Wilcox reactor systems. The Subcommittee will also review the proposed FY–81 NRC budget figures for ECCS-realted research activies.

Improved Safety Systems, June 26, 1979, Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff and the Department of Energy (DOE) their plans for research on improved safety systems and expected changes in these programs due to the March 28, 1979 Three Mile Island, Unit 2 Accident.

Floating Nuclear Plant, June 27, 1979, Washington, DC. The Subcommittee will continue its review of the Offshore Power Systems' application for a manufacturing license for the Floating Nuclear Plant. The specific topic of this meeting will be the review of the core catcher concept using magnesium oxide bricks.

Radiological Effects and Site Evaluation, June 27, 1979, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff and invited speakers from outside NRC to discuss changes in the NRC research program budget in the areas of radiological effects and site evaluation. Other topics related to radiological effects and site evaluation may also be discussed.

Evaluation of Licensee Event Reports, June 28–29 and July 19, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports.

La Crosse Nuclear Power Plant, June 30, 1979, Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff and the licensee the overall condition of the reactor, and the status of the NRC systematic evaluation of this plant.

Reactor Safety Research, July 10, 1979, Washington, DC. The Subcommittee will discuss reactor safety research and will prepare a draft report to the full committee on the proposed FY–80 research budget.

Metal Components, July 10–11, 1979, Washington, DC. The Subcommittee will discuss recent events concering safety/relief valve reliability and the Review and Evaluation of the NRC Safety Research Program.

Regulatory Activities, July 11, 1979, Washington, DC. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

Evaluation of Licensee Event Reports, July 19, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports.

Interim Report: Additional meetings of ACRS subcommittees may be scheduled during this period to begin review of topics identified as a result of the March 28, 1979 Three Mile Island, Unit 2 Accident.

ACRS Full Committee Meetings

June 14–15, 1979

A. *Three Mile Island Nuclear Station, Unit 2: Evaluation of the March 28, 1979 Accident.

B. *Millstone Nuclear Power Station, Unit 2: Proposed power level increase review.

C. *Sequoyah Nuclear Plant: Operating License review.

D. *Palo Verde Nuclear Generating Station, Units 4 and 5: Construction Permit review.

E. *Review of recent nuclear power plant operating experience and licensing actions.

F. *Review stress corrosion cracking in nuclear power plant systems.

G. *Review proposed design criteria for spent fuel storage facilities.

H. *Review proposed procedures for emergency planning associated with nuclear facilities.

I. *Review reactor fuel element cladding materials.

July 12–14, 1979—Agenda to be announced.

August 9–11, 1979—Agenda to be announced.

Dated: May 21, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-16295 Filed 5-23-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–471]

Boston Edison Co.: Availability of Final Supplement to the Final Environmental Statement for the Pilgrim Nuclear Power Station, Unit No. 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulation in 10 CFR Part 51, notice is hereby given that the Final Supplement to the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to alternative sites to the proposed construction of the Pilgrim Nuclear Power Station, Unit No. 2, to be located in Plymouth County, Massachusetts, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC, and in the Plymouth Public Library, North Street, Plymouth, Massachusetts. The Final Supplement is also being made available at the Office of State Planning, John McCormack Building, 1 Ashburton Place, Boston, Massachusetts, and at the Old colony Planning Council, 232 Main Street, Brockton, Massaschusetts.

The notice of availability of the Draft Supplement to the Final Environmental Statement for the Pilgrim Nuclear Power Station, Unit No. 2, and requests for comments from interested persons was published in the Federal Register on February 28, 1979 (44 FR 11281). The comments received from Federal, State, and local officials and interested members of the public have been

included as appendices to the Final Supplement.

Copies of the Final Supplement to the Final Environmental Statement (Document No. NUREG–0549) may be purchased, at $7.25 for printed copies and $3.00 for microfiche, from the National Technial Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 16th day of May 1979.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr., *Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.*

[FR Doc. 79-16298 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-01-M

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VII of this issue.

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Provisional Operating License No. DPR–22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment permits a modification to the Low Pressure Coolant Injection subsystem pump performance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 1, 1978, revised December 7, 1978, (2) Amendment No. 39 to License No. DPR–22, 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 a the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito, *Chief, Operating Reactors Branch #3, Division of Operating Reactors.*

[FR Doc. 79-16289 Filed 5-23-79; 8:45 am]

BILLING CODE 7590—1-M

[Docket No. P-564A]

Pacific Gas & Electric Co. (Stanislaus Nuclear Project Unit No. 1); Reconstitution 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 reconstituted the Atomic Safety and Licensing Appeal Board for this antitrust proceeding to consist of the following members: Alan S. Rosenthal, chairman; Michael C. Farrar, Richard S. Salzman.

Dated: May 17, 1979.

Romayne M. Skrutski, *Secretary to the Appeal Board.*

[FR Doc. 79-16300 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-12]

Accident Report, Safety Recommendations and Responses; Availability

Aircraft Accident Report

Pacific Southwest Airlines, Inc., Boeing 727-214, N533PS, and Gibbs Flite Center, Inc., Cessna 172, N7711G, San Diego, Calif., September 25, 1978 (NTSB-AAR-79-5).—The National Transportation Safety Board on May 14 released its formal report on the investigation into this, the worst accident in American aviation history. The aircraft collided in midair about 3 nautical miles northeast of San Diego's Lindbergh Field. Both aircraft crashed in a residential area. All 137 persons in both aircraft were killed, as were seven persons on the ground. Nine persons on the ground were injured. Twenty-two dwellings were damaged or destroyed. The weather was clear, and the visibility was 10 miles.

Investigation showed that the Cessna was climbing on a northeast heading and was in radio contact with the San Diego approach control. The Boeing 727 was on a visual approach to runway 27. Its flightcrew had reported sighting the Cessna and was cleared by the approach controller to maintain visual separation and to contact the Lindberghtower. Upon contacting the tower, the Boeing 727 was again advised of the Cessna's position. The flightcrew did not have the Cessna in sight. They thought they had passed it and continued their approach. The aircraft collided near 2,600 ft m.s.l.

On a 3-to-1 vote the Safety Board determined that the probable cause of the accident was the failure of the flightcrew of the Boeing 727 to comply with the provisions of a maintain-visual-separation clearance, including the requirement to inform the controller when they no longer had the other aircraft in sight. Contributing to the accident were the air traffic control procedures in effect which authorized the controllers to use visual separation procedures to separate two aircraft on potentially conflicting tracks when the capability was available to provide either lateral or vertical radar separation to either aircraft.

The majority approving the probable cause was composed of Chairman James B. King, Vice Chairman Elwood T. Driver, and Member Philip A. Hogue. Member Francis H. McAdams dissented.

Mr. McAdams stated that, contrary to the majority, he would assign equal responsibility for the cause of the accident to the crew of the Boeing 727 (PSA Flight 182) and the air traffic control system. Accordingly, he stated that the probable cause of the accident was "the failure of the flightcrew of Flight 182 to maintain visual separation and to advise the controller when visual contact was lost; and the air traffic control procedures in effect which authorized the controllers to use visual separation procedures in a terminal area environment when the capability was available to provide either lateral or vertical radar separation to either aircraft." Further, Mr. McAdams stated that he would add the following factors as contributory in addition to those listed by the majority:

1. The failure of the air traffic control system to establish procedures for the most effective use of the conflict alert system at the San Diego approach control facility.
2. The failure of the controller to restrict PSA 182 to a 4,000-foot altitude until clear of the Montgomery Field airport traffic area.
3. The improper resolution by the controller of the conflict alert.
4. The procedure whereby two separate air traffic control facilities were controlling traffic in the same airspace.
5. The failure of the controller to advise PSA 182 of the direction of movement of the Cessna.
6. The failure of the Cessna to maintain the assigned heading.
7. The possible misidentification of the Cessna by PSA 182 due to the presence of a third unknown aircraft in the area.

As a result of its investigation of this accident, the Safety Board last October recommended that the Federal Aviation Administration: Implement a Terminal Radar Service Area at Lindbergh Airport (A-78-77); review procedures at all airports which are used regularly by air carrier and general aviation aircraft to determine which other areas require either a terminal control area or a terminal control radar service area and establish the appropriate one (A-78-78); use visual separation in terminal control areas and terminal radar service areas only when a pilot requests it, except for sequencing on the final approach with radar monitoring (A-78-82); and re-evaluate its policy on use of visual separation in other terminal areas (A-78-83). (See also 43 FR 51150, November 2, 1978.)

Safety Recommendation Letters

Highway

H-79-31.— The Safety Board on May 15 issued identical letters to the Governors of the 50 States recommending that each State:

Enact legislation to require that the driver of any motor vehicle with a seating capacity of more than 16 passengers, whether so employed or acting voluntarily, shall possess, in addition to a properly classified State driver's license, a certificate authenticating such driver's successful completion of a busdriver training course which conforms to Highway Safety Program Standard No. 17, Pupil Transportation Safety. (Class II, Priority Action) (H-79-31)

This recommendation was issued following investigation of the crash of a "schoolbus" type bus near Tifton, Ga., April 11, 1978. The bus, owned and operated by the Ypsilanti Boys Club, was en route to Disney World, Fla., from Ypsilanti, Mich., when it went off the road while negotiating a right curve on the exit lane at a safety rest area. The bus overturned and struck a tree. Of the 56 boys and two adults aboard, three were killed; the driver and 25 passengers were injured.

Investigation of this accident indicated that the 24-year-old busdriver was employed by the Ypsilanti Boys Club in 1975 as a Unit Director; her duties included driving a "schoolbus" type bus. She held a valid Michigan State chauffeur's license that authorized her to drive this type of vehicle; there were no restrictions. The driver had received no formal busdriver training. She was taught to drive the bus by another Boys Club employee.

The Safety Board determined that the probable cause of this accident was the driver's loss of directional control of the bus on a curve because of excessive speed due to failure of the accelerator return spring, which resulted from improper maintenance. Contributory causes of the accident were severely underinflated tires, deteriorated suspension, excessive luggage on the roof, and driver fatigue. Four earlier recommendations were issued by the Safety Board on March 22 (44 FR 18748, March 29, 1979). The Board's formal investigation report, No. NTSB-HAR-79-2, was made public in early April (44 FR 21907, April 12, 1979.)

H-79-27 and 28, H-79-29, and H-79-30.—About 3:30 p.m. last August 22, an ambulance responding to an emergency call and traveling at a calculated speed of 90 to 95 mph failed to negotiate a curve on New Hampshire State Route 116 east of Littleton, N.H., and rolled over. Two persons in the ambulance were killed and the driver was injured.

Investigation showed that the ambulance was a modified 1974 Chevrolet Suburban Custom 10, owned and operated by the Ross Ambulance Service of Littleton. It was originally manufactured as a multipurpose passenger vehicle with a gross vehicle weight rating of 5,400 pounds. The vehicle was later modified for use as an ambulance. At the time of the accident, the vehicle, including the driver and three passengers, weighed 6,930 pounds or 28 percent over the original gross vehicle weight rating.

The Safety Board's review of the Federal Motor Vehicle Safety Standards (FMVSS) revealed that there are no standards or specifications which assure that the total design and construction of ambulances as modified by the after-market installers are of sufficient structural strength and stability to withstand impact forces similar to requirements imposed on the original vehicle manufacturer. The Board believes that the FMVSS should include standards on general body construction and ambulance body structure to insure that patients and medical technicians riding in the ambulance body have the same protection as the driver. Also, the completed ambulance should be capable of withstanding reasonable impact forces. Accordingly, on May 17 the Safety Board recommended that the National Highway Traffic Safety Administration:

Extend the application of FMVSS 220, Schoolbus Rollover Protection; FMVSS 221, Schoolbus Body Joint Strength; and FMVSS 301, Fuel System Integrity to include ambulances and other emergency vehicles. (Class II, Priority Action) (H-79-27)

Study the feasibility of extending the FMVSS relating to vehicle interior padding, occupant protection, and the anchorages of seats, flooring, and equipment to include ambulances and other emergency vehicles. (Class III, Longer Term Action) (H-79-28)

Also on May 17, the Safety Board forwarded two additional recommendation letters as a result of its investigation of this accident. The Board recommended that the General Services Administration:

Add to the Federal Specification KKK-A-1822 of January 2, 1974, Ambulances Approved by Federal Supply Services, performance-type requirements in the following areas: (1) Maintenance of the manufacturer's vehicle handling characteristics during modification procedures, (2) loading instructions to guide users so as not to change vehicle handling characteristics, (3) body structural integrity, (4) anchorages for all equipment installed, and (5) occupant protection. (Class II, Priority Action) (H-79-29)

The Safety Board recommended that the National Committee on Uniform Traffic Laws and Ordinances, in cooperation with the American Bar Association:

Consider the modification of Section 11-106(b)3 of the Uniform Vehicle Code to include the following criteria to justify an exemption from posted speed limits: (1) The determination by a medical authority that the gravity of the patient's situation requires emergency operation, (2) the condition of the vehicle, traffic, and roadway will permit such operation, (3) the environmental conditions are conducive to such operation; (4) the vehicle is being operated by a certified ambulance driver, and (5) the ambulance speed limit will be restricted to no more than 10 mph over the posted speed limit with normal road, weather, and traffic conditions. (Class II, Priority Action) (H-79-30)

Pipeline

P-79-2 through 5, P-79-6, P-79-7, and P-79-8.—As a result of its investigation of the liquefied petroleum gas (LPG) pipeline rupture and fire which occurred last August 4 near Donnellson, Iowa, the Safety Board on May 15 and 18 issued four recommendation letters.

Investigation shows that propane, which had vaporized and spread widely from the ruptured 8-inch LPG pipeline owned by Mid-American Pipeline System (MAPCO), had been ignited by an unknown source in a rural area. The intense fire killed two persons and critically burned three others; one of the critically burned persons later dies. A farmhouse and six outbuildings were destroyed, and two adjacent homes were damaged. Three months prior to the accident a highway construction project required MAPCO to lower the pipeline more than 11 feet from its previous depth. In order to obtain enough slack in the pipeline to lower it this much, MAPCO's practice required that for every foot the steel pipe was to be lowered, a 35-foot section had to be exposed.

In view of its findings, the Safety Board on May 15 recommended that MAPCO:

Determine by analytical means the stresses produced on the pipe steel when projects require the lowering of a section of pipeline, and design a safety factor to insure that these stresses will not affect the integrity of the line. (P-79-2)

Establish written procedures that require its personnel to ascertain that precautions are taken in the field to eliminate excessive or sudden changes in elevation when lowering a section of pipeline. (P-79-3)

Emphasize to its pipeline construction inspection personnel the importance of careful, thorough inspection to minimize the occurrence of dents and gouges which could result in similar accidents. (P-79-4)

Check all other segments of its pipeline for conditions similar to the open valve condition in the line section involved in this accident and make changes or additions as required. (P-79-5)

Also on May 15, the Safety Board directed a separate recommendation letter to the Materials Transportation Bureau (MTB), U.S. Department of Transportation. The letter said that statistics show that LPG is more hazardous than other petroleum products. Since 1972 the Safety Board's investigations of LPG accidents have resulted in 11 recommendations regarding rulemaking to make regulations for LPG pipelines more stringent. The Board further noted that on August 8, 1978, DOT's former Office of Pipeline Safety Operations issued its first of three notices of proposed rulemaking about LPG pipelines. The first concerned maintenance, operating, and emergency procedures; the second, issued last August 28, concerned valve types and valve spacing; and the third, issued November 7, concerned testing LPG pipelines. To date no regulations have been issued as a result of the Safety Board's recommendations or of the rulemaking process. Accordingly, the Safety Board recommended that MTB:

Reevaluate all recommendations made by the Safety Board concerning LPG, and expedite those that require rulemaking. (P-79-6)

Further in connection with this pipeline accident, the Safety Board on May 18 recommended that the American Petroleum Institute:

Advise its member companies who operate similar LPG pipelines of the importance of careful, thorough inspection during pipeline construction to minimize the incidence of dents and gouges which could result in similar accidents, and bring to their attention the need to use proper engineering techniques when it is necessary to relocate or lower a section of pipeline. (P-79-7)

In the belief that pipe can be manufactured to transport LPG more safely, the Safety Board also on May 18 recommended that the American Iron and Steel Institute and the American Petroleum Institute:

Undertake research for more stringent specifications for line pipe manufactured for LPG pipeline service to minimize or mitigate the effects of dents and gouges. Consideration should be given to the research currently being conducted by the American Gas Association on this problem. (P-79-8)

Each of the above pipeline safety recommendations has been designated "Class II, Priority Action." The Safety Board's formal investigation report on this accident is now being prepared for distribution and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A-75-74 and 75.—The Federal Aviation Administration on May 9 updated action taken to implement recommendations issued following investigation of the crash of Trans World Airlines Flight 514, a B-727-231, at Berryville, Va., December 1, 1974.

Recommendation A-75-74 asked FAA, in concert with the two other IACC (Interagency Air Cartographic Committee) members (Department of Commerce and Department of Defense) and the Jeppesen Company, to conduct a study of the cartographic techniques and specifications used throughout the aviation industry for approach charts to identify those techniques and specifications that best lend themselves to uniformity and standardization. Based on this study, A-75-75 recommended that FAA initiate steps to revise the IACC manual to include those techniques and specifications that best lend themselves to uniformity and standardization.

In response FAA says that subsequent to the TWA-514 accident, FAA initiated a study of numerous proposals concerning possible alternative methods of improving a variety of aeronautical charts. Many of the proposals resulted in various prototype charts, some receiving extensive operational tests and evaluation. Simultaneously, the Jeppesen Company undertook a detailed review of their products and implemented a number of significant changes. FAA believes that the Board's recommendation primarily addressed the method of depiction for Minimum Safe Altitude (MSA) and other symbology variations between the U.S. Government and Jeppesen charts. The revision to all Jeppesen charts to depict MSA in polar form similar to the Government chart has been completed. Also, the technique used for depiction of the Missed Approach Holding Pattern has been revised to be in consonance with Government charts. FAA has also arranged with Jeppesen to coordinate any new symbology developed for charting purposes prior to implementing such symbols. For example, the symbol for Visual Descent Point (VDP), which has been introduced by Flight Standards Service, employs the same symbology on both Government and Jeppesen charts.

Highway

H-78-71.—The Federal Highway Administration on May 8 responded to a recommendation resulting from investigation of the October 2, 1977,

passenger train/pickup truck grade crossing collision at Plant City, Fla. The recommendation called on FHWA, the Federal Railroad Administration, Amtrak, Seaboard Coastline Railroad, and the Florida Department of Transportation to cooperate in reducing the high frequently of railroad highway grade crossing accidents along the 240 miles of track between Jacksonville and Tampa, Fla. (See 44 FR 3795, January 18, 1979.)

FHWA's May 8 response includes a general description of FHWA's activities on a national scale with respect to grade crossing safety. Specifically, FHWA recently authorized a project in Florida using Federal funds for installing or upgrading crossbuck warning signs on the Amtrak crossings in the Jacksonville-Tampa corridor. Florida DOT continues to use safety funds to upgrade pavement markings and warnings signs in the corridor. FHWA notes that Florida DOT, Amtrak, and Seaboard are involved in a 5-year program to upgrade or close many of the grade crossings in the Jacksonville-Tampa corridor; almost $8 million will be used in this work, including $2 million in Federal funds. FHWA's office in Tallahassee, Fla., is working with the State in developing the program.

Intermodal

I-78-9.—Letter of May 11 from the Research and Special Programs Administration's Material Transportation Bureau is a futher response to one of the six recommendations issued to the U.S. Department of Transportation last June 29 following the Safety Board's en banc hearing on the hazardous materials derailment problem. Initial response to this recommendation was forwarded on January 19 (44 FR 6538, February 1, 1979). The Safety Board on February 26 acknowledged MTB's response and noted that MTB is actively pursuing the development of a safety-analysis type work plan for its regulatory and exemption processing activities. The Board believes that such a plan will engender a high degree of compliance with hazardous materials regulations and that a published uniform plan for evaluation of exemption applications should reduce the workload as well as increase the quality of the applications.

MTB has now provided for the Safety Board's consideration and comment a safety analysis plan employed in the exemptions program. MTB says that a similar plan stating the analytical process used in rulemaking is being prepared and MTB will seek additional staff contact in furtherance of that project. As indicated in the introduction to the plan, the purpose is to provide a safety analysis framework to be used in evaluating applications for exemptions to the hazardous materials regulations. The evaluation process is described through the use of fault tree analysis. It will give applicants for exemptions a clear understanding of the decisionmaking process involved in evaluating an exemption application and will aid the applicant in understanding what types of technical data are required in order to evaluate an exemption. The fault tree analysis will be used in conjunction with the incident reporting system to determine problem areas in the decisionmaking process. Necessary changes in evaluation criteria will be made.

Pipeline

P-72-34.—Letter of October 30, 1978, from the Materials Transportation Bureau, a copy of which was recently provided to the Safety Board, is in reference to a recommendation issued following investigation of the Lone Star Gas Company accident at North Richland Hills, Texas, October 4, 1971.

The recommendation asked the former Office of Pipeline Safety Operations to amend 49 CFR Part 192 to include a section based on a review of the suitability of threaded galvanized pipe or pipe coated with other dissimilar metals, for the transportation of natural and other gas.

In response, MTB has reviewed a report, "Environmental Induced Cracking of Natural Gas and Liquid Pipelines," and other information and has concluded that galvanized pipe or pipe coated with dissimilar metals are no more susceptible to hydrogen embrittlement than other types of metallic piping material. MTB believes that galvanized pipe and pipe coated with dissimilar materials are suitable for use in gas systems provided they meet requirements of 49 CFR Part 192. MTB does not anticipate rule changes in this area.

Based on MTB's response, the Safety Board on April 26 advised that recommendation P-72-34 has now been classified "closed—acceptable alternate action."

P-73-38.—Letter dated September 14, 1978, from MTB is in response to a recommendation issued to OPSO following investigation of the Atlanta Gas Light Company explosion in Atlanta, Ga., August 31, 1972. The recommendation asked OPSO to cooperate with State regulatory agencies to determine the degree of nationwide compliance with 49 CFR 192.615, Written Emergency Procedures, and take enforcement action accordingly.

MTB reports that since the recommendation was issued § 615 has been amended to clarify and expand emergency plan requirements. During operator inspections by MTB, particular attention is paid to § 615 compliance; a record of inspection since April 1976 shows that 70 cases are being processed against operators found not to be in compliance. MTB has issued written guidelines for § 615 and meets with State enforcement personnel to emphasize compliance. There is no quantitative record of the results of MTB emphasis on written emergency procedures, but MTB assures that close compliance surveillance will be maintained.

In advising MTB on April 26 that recommendation P-73-38 has been classified "closed—acceptable action," the Safety Board expressed interest in an annual breakdown of MTB's § 615 enforcement actions since April 1976 in order to observe the trend. Also, the Safety Board asked for a report on the outcome of the enforcement actions underway.

Railroad

R-78-14 through 16.—Letter of April 6 from Illinois Central Gulf (ICG) is in response to the Safety Board's inquiries and comments forwarded February 6 following a review of ICG's November 20, 1978, response. (43 FR 57360, December 7, 1978.) The recommendations resulted from investigation of the rear end collision of two ICG commuter trains in Chicago, Ill., January 26, 1978, and sought to correct design deficiencies of the brake system on Highliner cars to ensure that prolonged operation with the "snow brake" activated will not prevent the brakeshoe wear compensating feature of the hydropneumatic booster assembly from maintaining the hydraulic fluid volume needed to assure proper brake performance in all weather conditions.

Commenting on recommendation R-78-14, the Safety Board noted that the investigation of this accident disclosed that continuous brakeshoe wear resulted from operating in the snow brake mode, and that the excessive wear created a gradual reduction in brake effectiveness. The Board asked ICG:

1. Are there data available which support the use of cast-iron shoes versus composition shoes as positive means to correct the braking problem?

2. Have there been any design changes, such as reduced hydropneumatic booster pressure, which correct the problem of shoe wear?

3. In the absence of design changes, have there been revisions in maintenance and inspection schedules which insure that braking effectiveness will not be suddenly lost?

ICC reports that tests with iron brake shoes revealed that the wheel tread was sufficiently roughened to remove ice buildup during brake applications or would prevent ice buildup if the snow brake were properly applied. Tests were conducted on two separate cars, one with iron brakeshoes and one with composition brakeshoes. ICG has revised its maintenance schedules and improved its method of inspection and feels confident that the braking effectiveness will not be suddenly lost.

With respect to recommendation R-78-15, the Board expressed concern about the instructions contained in the fourth paragraph of ICG Bulletin Notice No. 97, issued February 23, 1978. As stated, the engineer is to make the required reductions in brake pipe pressure, then "Proceed to next scheduled stop. If this does not correct condition, call Power Supervisor's Office for instructions." The Board said this suggests that the engineer's actions may *or may not* correct the braking problem, which implies operating a passenger commuter train having a questionable retarding capacity. The Board asked if these instructions have been superseded with positive corrective instructions issued to engineers. ICG notes that Bulletin Order No. 94 issued March 6, 1979, gives positive, corrective instructions to engineers.

The Safety Board on February 6 noted, with reference to recommendation R-78-16, that the operating procedures associated with adverse weather should insure that all trains operate in the snow brake mode. To further assure safe operations, the Board asked are other disciplines such as reduced maximum authorized speeds or increasing the spacing of trains also placed in effect. In response, ICG informs that its Commuter Division instituted snow plan procedures to be applied as conditions warrant: (a) Maximum permissible speed of 30 mph; (b) upon sighting an approach signal, the engineer will make a full service brake application to assure proper braking, and (c) hydraulic brake pipe pressure of 50 psi is to be carried to keep the brakeshoes against the wheels.

In view of ICG's April 6 response, the Safety Board on May 7 informed that all three of these recommendations have now been classified "closed— acceptable action."

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Margaret L. Fisher,

Federal Register Liaison Officer.

May 21, 1979.

[FR Doc. 79-16301 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Donald W. Barrowman—447-6202)

Revisions

Farmer's Home Administration
*Guaranteed Loan Closing Report
FMHA, 1980-19
Semi-Annually
Lender's in towns less than 50,000, 1,500 responses; 750 hours
Charles A. Ellett, 395-5080

Extensions

Economics, Statistics, and Cooperatives Service
*Ginning Charges and Related Data (Assessment of Charges)
Annually
Cotton gins, 400 responses; 200 hours

Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michaels—377-4217)

New Forms

Bureau of the Census
Water use in manufacturing—water use in mineral industries
MC-D-13A and 13B
Single time
Estates, w/water intake of 20 million gallons or more, 15,500 responses; 15,500 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Nonhousehold Sources Form—1980 Decennial Census
D-434
Single time
A sample of persons within certain racial and ethnic groups, 3,600,000 responses; 360,000 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Departmental and Other
Category 88 Questionnaire
Single time
Reference materials, 50 responses; 4 hours
Richard Sheppard, 395-3211

Industry and Trade Administration
*Supplemental commodity information
ITA-6056P
On occasion
Commercial exporters, 7,000 responses; 3,500 hours
Richard Sheppard, 395-3211

Revisions

Bureau of the Census
1979 Report of Organization
NC-X1A and NC-X1C
Annually
Multiestablishments in all economic areas, 50,000 responses; 49,667 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
Knit Fabric Production
MA-22K, MA-22K
Quarterly
Knit Fabric Producers, 2,260 responses; 1,695 hours
Off. of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Albert H. Linden—633-8477)

New Forms

Low Income Weatherization Application
EIA-29B
On occasion
States and the District of Columbia Indian Tribes, 76 responses; 6,080 hours
Jefferson B. Hill, 395-5867
*Subcontractor survey
ET-158
Annually
Et prime contractors, 440 responses; 220 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

(Agency Clearance Officer—Peter Gness—245-7488)

New Forms

Center for Disease Control
Attitudes and Practices of Private Physicians Related to Influenza
Single time
Private physicians, 1,000 responses; 500 hours
Richard Eisinger, 395-3214

Food and Drug Administration
Nuclear Medicine Quality Assurance Survey
Single time
Hospitals
Richard Eisinger 395-3214

Extensions

Center for Disease Control
*Application for Training-CDC
CDC 0.759A, B, C
On Occasion
Training Course Applicants 6,000 responses; 1,000 hours
Richard Eisinger, 395-3214

Food and Drug Administration
*Transmittal of Periodic Reports for Drugs for Human Use
FD-2252
Annually Pharmaceutical Firms 3,500 responses; 1,750 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Agency Clearance Officer—John T. Murphy—755-5190)

Extensions

Housing Management
Progress Report
HUD-52995
Quarterly
Public Housing Agencies 2,400 responses; 9,000 hours
Arnold Strasser, 395-5080

Housing Management
Modernization Work Program
HUD-52994
On occasion
Public Housing Agencies 600 responses; 1,200 hours
Arnold Strasser, 395-5080

Housing Management
Modernization Program Budget
HUD-52990
On occasion
Public Housing Agencies 600 responses; 1,800 hours
Arnold Strasser, 395-5080

Housing Management
*Recertification of Family Income and Composition
Section 235 (J)
FHA-3161
Other (see SF-83)
Homeowners Receiving Financial Assistance 2,750 responses; 1,375 hours
Arnold Strasser, 395-5080

Housing Management
Application for Tenant Eligibility Under the Section 236 Program
FHA 3131 Low & Moderate Income Households
On occasion
100,000 responses; 50,000 hours
Arnold Strasser, 395-5080

Housing Management
Report of Family Characteristics for the Section 8 Housing Assistance Payments
HUD 52675
Semi-annually
PHA's Operating Section 8 Existing Projects 2,800 responses; 4,200 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

(Agency Clearance Officer—William L. Carpenter—343-6716)

Extensions

Bureau of Land Management
*Private Maintenance of Excess Wild Horse(s) or Burro(s)
Application
4710-10
Any Indiv. Desiring To Obtain Horses or Burros 200 responses; 50 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF JUSTICE

(Agency Clearance Officer—Donald E. Larue—633-3526)

Extensions

Immigration and Naturalization Service
*Application To Preserve Residence . . . Naturalization Purposes
N-470
On occasion Permanent Residence 3,000 responses; 750 hours
Richard Sheppard, 395-3211

Immigration and Naturalization Service
*Canadian Border Boat Landing Card
I-68
On occasion Canadian Nationals 50,000 responses; 8,333 hours
Richard Sheppard, 395-3211

Immigration and Naturalization Service
*Certification of Military or Naval Service
N-426
On occasion Filed by Applicants for Naturalization 6,000 responses; 1,000 hours
Richard Sheppard, 395-3211

DEPARTMENT OF LABOR

(Agency Clearance Officer—Philip M. Oliver—523-6341)

New Forms

Employment Standards Administration
Survey of Employers and Insurers
ESA-78(T)
Single time
Employers With Over 100 Employees, Insurance Carriers 570 responses; 188 hours
Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—Bruce H. Allen—426-1887)

Extensions

Coast Guard
Account of Wages and Effects of Deceased or Deserting Seaman
CG 1517
On occasion Shipping Companies Represented by Ship's Masters 400 responses; 600 hours
Susan E. Geiger, 395-5867

ENVIRONMENTAL PROTECTION AGENCY

(Agency Clearance Officer—John J. Stanton—245-3064)

New Forms

Health Effects in Individuals Exposed to Vinyl Chloride
During Childhood
Single time
Former Students of Saugus Elementary School 5,000 responses; 2,800 hours
Edward H. Clarke, 395-5867

Revisions

Study of Organic Compounds in Human Tissues and Body
Fluids
Single time
Individuals in Five Geographical Areas 190 responses; 190 hours
Edward H. Clarke, 395-5867

FEDERAL RESERVE SYSTEM

(Agency Clearance Officer—Carolyn B. Doying—452-3512)

Extensions

Daily Report of Dealer Transaction
FR 2004
Other (see SF-83) Primary Dealers in U.S. Gov't Securities 7,500 responses; 9,375 hours
Susan E. Geiger, 395-5867

NATIONAL CAPITAL PLANNING COMMISSION

(Agency Clearance Officer—Malcolm L. Trevor—724-0170)

New Forms

Survey of Tourist Travel
Single time
Visitors to Museums, Parks and Other Fed. Tourist Sites in NCR 5,000 responses; 250 hours)
Arnold Strasser, 395-5080

NATIONAL SCIENCE FOUNDATION

(Agency Clearance Officer—Herman Fleming—634-4070)

New Forms

Antarctic Conservation Act Application and Permit on Occasion
Research Scientists in Educational Institutions 20 responses; 20 hours
Richard Sheppard, 395-3211

Extensions

*Undergraduate Research Participation Program Status Report 541
Annually Principal Investigators 173 responses, 87 hours
Richard Sheppard, 395-3211
Special Foreign Currency Expenditure and Financial Status Report
NSF672
Annually
Educational Inst. & Non-Profit Inst. 40 responses; 100 hours
Richard Sheppard, 395-3211

VETERANS ADMINISTRATION

(Agency Clearance Officer—R. C. Whitt—389-2282)

New Forms

Survey of Former VA Physicians and Dentists 10-2199
Single time
Physicians, Dentists Separated from VA 1,100 responses; 275 hours
David P. Caywood, 395-6140
*VA Consumer Feedback Card (Pretest)
07-9968A(NR) 07-9968B(NR)
On occasion
Veteran Patients 3,240 responses; 269 hours
David P. Caywood, 395-6140

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-16294 Filed 5-23-79; 8:45 am]
BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 08/03-0047]

The Davis Whittle Co.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102(1978)), by the Davis Whittle Company, 1301 Spruce Street, Suite 101, Boulder, Colorado 80302 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C *et seq.*).

The proposed officers, directors and stockholders will be:

Name and Address, Title and relationship, and Percent of Ownership

Nicholas H. C. Davis, 1228 East Third Avenue, Denver, Colorado 80218, director and chairman, 5.7.
Paul D. Whittle, 3515 23rd Street, Boulder, Colorado 80302, director and president, 5.7.
Judith B. Foster, 750 Franklin Street, Denver, Colorado 80218, director, secretary and treasurer, 2.4.
Clayton G. Dorn, 380 High Street, Denver, Colorado 80218, shareholder, 18.8.
West Branch Associates, John C. Dorn, Managing Partner, P.O. Box 1916, Midland, Texas 79702, shareholder, 14.2.

West Branch Associates is a partnership consisting of: John C. Dorn, as managing partner; Rebecca L. Dorn, Leslie S. Dorn, and Steven H. Dorn, all children of John C. Dorn; and Jack D. Riggs, as successor trustee under the John C. Dorn 1963 Trust for Timothy L. Dorn, a son of John C. Dorn. There are no other holders of as much as 10 percent of the stock of the Applicant.

The Applicant proposes to begin operations with a capitalization of $1,030,000 and will be a source of equity capital and long term loans for qualified small business concerns. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their managment, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC

to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Boulder, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: May 18, 1979.

Peter F. McNeish,

Deputy Associate Administrator, for Finance and Investment.

[FR Doc. 79-16321 Filed 5-23-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1636]

Massachusetts; Declaration of Disaster Loan Area

The area 19-33 North Street in the City of Pittsfield, Berkshire County, Massachusetts, constitutes a disaster area because of damage resulting from a fire which occurred on May 7, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 16, 1979, and for economic injury until the close of business on February 15, 1980, at; Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-16322 Filed 5-23-79; 8:45 am]

BILLING CODE: 8025-01-M

DEPARTMENT OF STATE

[Public Notice 667]

Draft Environmental Impact Statement on Proposed Migratory Species Convention; Meeting

The Department of State will hold a public meeting on Friday, June 1, 1979, at 10 a.m. to obtain oral comments on a draft environmental impact statement (EIS) prepared by the Department of State on negotiation of a convention on conservation of migratory species. The meeting will be held in Room 1107 at the Department of State, 2201 C Street, N.W., Washington, D.C. Detailed written comments also may be submitted and may be summarized orally at the June 1 meeting.

A previous public meeting was held in the Department of State on April 10, 1979, to obtain public comment on the proposed convention and to assist in the preparation of the draft EIS. A transcript of the April 10 meeting testimony and copies of written comments received are included in the draft EIS.

The convention, which has been proposed by the Federal Republic of Germany, will be the subject of a negotiating conference in Bonn on June 11-23, 1979.

Copies of the draft EIS may be obtained from Mr. William Mansfield, Office of Environmental Affairs, Department of State, Room 7820, Washington, D.C. 20520 (tel. 202/632-2418).

For the Secretary of State.

Dated: May 21, 1979.

William Alston Hayne,

Deputy Assistant Secretary for Environmental Affairs.

[FR Doc. 79-16335 Filed 5-23-79; 8:45 am]

BILLING CODE 4710-09-M

[CM-8/201]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on the carriage of dangerous goods of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, June 13, 1979 in Room 8236 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

—Discuss United States positions on matters to be considered at the XXX Session of the IMCO Subcommittee on the Carriage of Dangerous Goods;

—Discuss the progress of IMCO activities of a continuing nature such as implementation of the IMDG Code.

Requests for further information should be directed to Captain William N. Spence, U.S. Coast Guard (G-MHM/83), Washington, D.C. 20590, telephone (202) 426-2296.

The Chairman will entertain comments from the public as time permits.

May 15, 1979.

Richard K. Bank,

Chairman, Shipping Coordinating Committee.

[FR Doc. 79-16293 Filed 5-23-79; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Cancellation of Informal Airspace Meeting

On April 26, 1979, the Federal Aviation Administration published a notice in the Federal Register (44 FR 24676) that an informal airspace meeting would be held in Houston, Texas, to discuss the proposed expansion of the Houston Terminal Control Area (TCA). This meeting is hereby canceled and will be rescheduled at a later date.

Ralph L. Frick,

Chief, Airspace and Procedures Branch, ASW-530, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas.

[FR Doc. 79-16245 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PR-79-2A]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of correction.

SUMMARY: On April 26, 1979, the FAA published a notice summarizing a petition for rule making filed by the Aircraft Owners and Pilot's Association (44 FR 24677). That notice incorrectly stated that the period for submitting comments on the petition closed on May 16, 1979. This notice corrects that error.

DATES: Comments on the petition must be received on or before June 25, 1979.

ADDRESS: Send Comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. 18882, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments, and a copy of any final disposition of petitions if filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

SUPPLEMENTARY INFORMATION: Summary Notice No. PR-79-2 (44 FR 24677; April 26, 1979) inadvertently and incorrectly stated that the comment period closed May 16, 1979. Under 14 CFR 11.27(b), comments on petitions for

rule making may be filed within 60 days after the summary is published in the Federal Register. Thus, the comment period should close on June 25, 1979.

By letter dated May 16, 1979, the Association of Federal Communications Consulting Engineers requested until July 16, 1979, to submit comments but did not note that the Summary Notice failed to provide the period contemplated under the procedural regulations governing petitions for rule making in Part 11.

The FAA agrees that additional time to submit comments is appropriate. However, in the absence of a demonstrated public interest basis for extending the period beyond 60 days, the FAA concludes that, in accordance with § 11.27(a) of Part 11 comments should be received on or before June 25, 1979.

The Correction

Accordingly, the comment period prescribed in Summary Notice No. PR-79-2 is hereby corrected to allow submission of comments on the petition on and before June 25, 1979.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on May 18, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 79-16254 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79-16192 appearing in Part VII of this issue.

BILLING CODE 4910-13-M

[Summary Notice No. PE-79-6]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA, DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 13, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Atten: Rules Docket (AGC-24), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 18, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19157	Capt. Stillman A. Bell	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60.
19159	Duncan Aviation, Inc.	14 CFR §§ 65.81(a) and 145.39(d)	To allow Mr. Joseph Hollier to work on Hartzell propellers without the 18 months experience required for a repairman certificate.
19160	Capt. T. H. Fowler	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60.
19161	John Thornton Mills	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60.
19163	Shawano Flying Service, Inc	14 CFR § 135.243(a)	To provide relief from the requirement that Pilots-in-Command possess an Airline Transport Pilot Certificate in "Commuter Air Carrier" operations.
19164	Soloy Conversions Ltd	CAR 6.247(c)(3)	To permit a reduction in the ground loads for a skid type landing gear comparable to that permitted for other than skid gears of helicopters.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulated affected	Description of relief sought—disposition
16576	Japan Air Lines Co., Ltd	14 CFR 21, 61, and 63	To renew Exemption No. 2369 and to substitute a new list of captains, co-pilots, and flight engineers. *Granted 5/14/79.*
16607	Trans Mediterranean Airways	14 CFR Parts 21, 61, and 91	To amend Exemption No. 2405E, as amended to include additional airmen in the appendix so that they may serve as flight crewmembers on leased, U.S.-registered B-707 aircraft. *Granted 5/14/79.*
	Blue Grass Airport	14 CFR 139.49(b)(3)	To permit air carrier user operations with one of the airport fire fighting vehicles out of service until June 1, 1979 *Granted 5/14/79.*

[FR Doc. 79-16246 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held on June 19, 20 and 21, 1979.

On June 19 starting at 8:30 a.m., the full Committee will meet in room 2232 of the DOT Headquarters building. The members will review for vote, the Commercial Vehicle Task Force's report on safety inspection and maintenance programs for commercial vehicles and consider the Highway Safety Data Task Force's report on data.

Also on June 19 starting at 10:00 a.m. in room 2232, the Commercial Vehicle Task Force will meet to hear presentations on the Trailways Bus Company's petition to require all new commercial vehicles for use in interstate commerce be equipped with governors which would limit speed capability to approximately 57 mph. A notice with additional information on this meeting was published in the Federal Register on April 19, 1979, Vol. 44, No. 77, page 23403.

On June 20 from 9:00 a.m. to 12:30 p.m., the Highway Environment Task Force will meet in room 2232. The agenda items to be discussed are: 1) FHWA briefing on status of 3R standards; 2) briefing on management review of FHWA division safety program engineer functions; and 3) new and old business.

At 2:00 p.m. on June 20 the Emergency Medical Services Task Force will hear presentations from the Department of Transportation and the Department of Health, Education and Welfare on the total emergency medical services program jointly sponsored by both Departments. There will also be consideration of future agenda items for the EMS Task Force.

On June 21 from 8:30 a.m. to 1:00 p.m., the full Committee will meet in room 2232. The agenda will include a presentation by Mr. Howard Anderson, FHWA Associate Administrator for Safety, on the need to modernize design standards for safety. The members will also hear reports on the Commercial Vehicle, Highway Environment, and Emergency Medical Services Task Force meetings. Individual members will report on several meetings they have attended since January, and a summary of the Motorcycle-Moped Task Force's work will be heard.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S. W. (DOT Headquarters Building), Washington, D. C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on May 21, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79-16302 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 88]

Assignment of Hearings

May 21, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to ensure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F-13622, Paris Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Company, now assigned for hearing on June 12, 1979, at Oklahoma City, OK is postponed to June 25, 1979 (4 days), at the Hilton Inn West, Interstate Highway & Meridian.

MC 136511 (Sub-26F), Virginia Appalachian Timber Corporation, now assigned for hearing on June 11, 1979, at Greensboro, NC is postponed to September 11, 1979 (4 days) at Greensboro, NC in a hearing room to be later designated.

MC-C-8879, Bowman Transportation, Inc., Et AL. V. Central Motor Express, Inc., now assigned for hearing on June 19, 1979, at Louisville, KY is canceled and reassigned for Prehearing Conference on June 19, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 61231 (Sub-129F), Easter Enterprises, Inc., d.b.a. Ace Lines Inc., now assigned June 11, 1979 (2 days) at Chicago, Illinois is canceled and transferred to modified procedure.

MC 114457 (Sub-445f), Dart Transit Company, now assigned May 21, 1979, in St. Paul, Minnesota, is canceled and transferred to modified procedure.

MC 111545 (Sub-255F), Home Transportation Co., Inc., now being assigned July 17, 1979 (4 days) for continued hearing in Reno, Nevada in a hearing room to be later designated.

MC-C 10303, *Transport of New Jersey* v *Greyhound Lines, Inc.*, now being assigned June 29, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135797 (Sub-166F), J. B. Hunt Transport, Inc., now being assigned July 31, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 73165 (Sub-457F), Eagle Motor Lines, Inc., now being assigned June 29, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 8958 (Sub-32F), The Youngstown Cartage Co., now being assigned June 29, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 145491F, Piggyback Transportation Service, Inc., now assigned May 16, 1979 at Chicago, Illinois is canceled and transferred to Modified Procedure.

MC 123407 (Sub-494F), Sawyer Transport, Inc., now assigned for Prehearing Conference on June 19, 1979, at Washington, D.C. has been reassigned for hearing on June 19, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

FD 29021, Consolidated Rail Corporation (ConRail)—Discontinuance of Passenger Trains Nos. 453-456 Between Valparaiso, Ind., and Chicago, Illinois, now being

assigned June 25, 1979 (3 days) at Chicago, Illinois, June 27, 1979 (1 day) at Whiting, Indiana, June 28, 1979, (1 day) at Gary, Indiana, June 29 1979 (1 day) at Nobart, Indiana and June 30, 1979 (1 day) at Valparaiso, Indiana in hearing rooms to be later designated.

FD 28692, Petition of the Pittsburgh and Lake Erie Railroad Company to Discontinue Trains Nos. 260 and 261 between Pittsburgh, Pennsylvania and College, Pennsylvania now assigned June 11, 1979 at Pittsburgh, Pennsylvania and June 13, 1979 at Beaver, Pennsylvania is postponed until August 13, 1979 (2 days) at Pittsburgh, Pennsylvania and August 15, 1979 (1 day) at Beaver, Pennsylvania in hearing rooms to be later designated.

MC 145339 Sub-3F, Nebraska Beef Express, Inc., now being continued to June 18, 1979 (2 days) at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.

MC 143059 (Sub-51F), Mercer Transportation Co., now being assigned July 31, 1979 (4 days) at Louisville, Kentucky in a hearing room to be later designated.

MC 145845, Raymond W. Payne, d.b.a. Payne Bus Service, now being assigned for hearing on July 9, 1979 (1 week), at Fredericksburg, Va., in a hearing room to be later designated.

MC 107678 (Sub-69F), Hill & Hill Truck Line, Inc., now being assigned for hearing on July 17, 1979 (9 days), at Denver, CO, in a hearing room to be later designated.

MC 120098 (Sub-31F), Uintah Freightways, now being assigned for hearing on July 17, 1979 (9 days), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 112713 (Sub-216F), Yellow Freight System, Inc., now being assigned for hearing on July 10, 1979 (1 day), at Dallas, TX, in a hearing room to be later designated.

MC 2900 (Sub-347F), Ryder Truck Lines, Inc., now being assigned for hearing on July 9, 1979 (1 week), at Cincinnati, OH, in a hearing room to be later designated.

MC 59367 (Sub-133F), Decker Truck Line, Inc., now being assigned for hearing on July 17, 1979 (1 day), at Omaha, Nebraska, in a hearing room to be later designated.

MC 127042 (Sub-232F), Hagen, Inc., now being assigned for hearing on July 18, 1979 (3 days), at Omaha, NE, in a hearing room to be later designated.

MC 144729 (Sub-1F), RFK Charter Coaches, Inc., now being assigned for hearing on July 23, 1979 (1 week), at Omaha, NE, in a hearing room to be later designated.

MC 144247 (Sub-3F), Downey Enterprises, Inc., now being assigned for hearing on July 10, 1979, at Denver, CO, in a hearing room to be later designated (1 day).

MC 145498 (Sub-2F), Skyline Construction Company Inc., now being assigned for hearing on July 11, 1979 (3 days), at Denver, CO, in a hearing room to be later designated.

MC 129480 (Sub-37F), Tri-Line Expressways, LTD, now being assigned for hearing on July 16, 1979 (3 days), at Denver, CO, in a hearing room to be later designated.

MC 108380 (Sub-95F), Johnston's Fuel Lines, Inc., now being assigned for hearing on July 19, 1979 (2 days), at Denver, CO, in a hearing room to be later designated.

MC 139023 (Sub-7F), 2-G Transportation, Inc., now being assigned for hearing on July 18, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 8472 (Sub-7F), South End Cartage, now being assigned for hearing on July 24, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 133655 (Sub-128F), Trans-National Truck, Inc., now being assigned for hearing on July 26, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 119789 (Sub-527F), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on July 20, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 109533 (Sub-106F), Overnite Transportation Co., now being assigned September 11, 1979 (9 days), at St. Louis, Missouri in a hearing room to be later designated.

MC 109533 (Sub-105F), Overnite Transportation Co., now being assigned October 23, 1979 (9 days), at Atlanta, Georgia in a hearing room to be later designated.

MC 140247 (Sub-2F), Allstate Charter Lines, Inc., now being assigned July 23, 1979 (2 days), at San Francisco, California in a hearing room to be later designated.

FF 514F, Southern Pacific Marine Transport, Inc., now being assigned July 25, 1979 (3 days), at San Francisco, California in a hearing room to be later designated.

MC 115931 (Sub-68F), Bee Line Transportation, Inc., now being assigned July 18, 1979 (3 days), at Billings, Montana in a hearing room to be later designated.

MC 107295 (Sub-896F), Pre-Fab Transit Company, now being assigned July 16, 1979 (2 days), at Billings, Montana in a hearing room to be later designated.

MC 129631 (Sub-63F), Pack Transport, Inc., now being assigned July 11, 1979 (3 days), at Billings, Montana in a hearing room to be later designated.

MC 51146 (Sub-640F), Schneider Transport, Inc., now being assigned for hearing on July 23, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 29643 (Sub-13F), Walsh Trucking Service, Inc., now assigned for hearing on June 11, 1979 (1 week), at Syracuse, NY, is postponed indefinitely.

MC 107913 (Sub-18), F & W Express, Inc., now assigned for hearing on May 24, 1979 (1 day), at Little Rock, AR, and will be held at the Holiday Inn, 6th & Broadway.

MC 145067 (Sub-2F), Lawrence E. Spaide, Inc., now assigned for hearing on May 18, 1979 (1 day), at Philadelphia, Pa., is canceled and application.

MC 119619 (Sub-128F), Distributors Service Co., now assigned for hearing on June 6, 1979 (3 days), at Buffalo, N.Y. and will be held in Room No. 1320, Federal Building, 111 Huron Street.

MC 109324 (Sub-38F), Garrison Motor Freight, Inc., now assigned for hearing on June 12, 1979, at Little Rock, AR, is canceled and reassigned to June 12, 1979 (4 days), at Dallas, TX, and continued to June 18, 1979 (5 days), at Little Rock, AR, in a hearing room to be later designated.

MC 19311 (Sub-48F), Central Transport, Inc., now assigned for hearing on June 5, 1979 (4 days), at Lansing, MI, in a hearing room to be later designated.

MC 116077 (Sub-396F), DSI Transport, Inc., now assigned for hearing on June 6, 1979 (6 days), at the Whitehall Hotel, 1700 Smith Street, Cullen Center, Houston, TX.

MC 116077 (Sub-396F), DSI Transport, Inc., now assigned for continued hearing on July 31, 1979 (4 days), at Houston, TX, in a hearing room to be later designated.

MC 120427 (Sub-23F), Williams Transfer, Inc., now assigned for hearing on August 6, 1979 (1 day), at Dallas, TX, in a hearing room to be later designated.

MC 119988 (Sub-173F), Great Western Trucking Co., Inc., now assigned for hearing on August 7, 1979 (2 days), at Dallas, TX, in a hearing room to be later designated.

MC 44735 (Sub-40F), Kissick Truck Lines, Inc., now assigned for hearing on August 9, 1979 (2 days), at Dallas, TX, in a hearing room to be later designated.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-16319 Filed 5-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29028 (Sub-No. 1)]

Missouri Pacific Railroad Co.—Purchase (Portion)—William M. Gibbons, Trustee of the Property of Chicago, Rock Island & Pacific Railroad Co., Debtor; Missouri Pacific Railroad Co., Securities

Missouri Pacific Railroad Company (MP), 210 North 13th Street, St. Louis, MO 63103, represented by Mark M. Hennelly, of the same address, and Leon Leighton, 25 Hadden Road, Scarsdale, NY 10583, gives notice that on April 26, 1979, it filed with the Interstate Commerce Commission, at Washington, D.C. an application under 49 U.S.C. 11343 in Finance Docket No. 29028 for a decision approving the purchase by MP of (1) the line of railroad of Chicago, Rock Island and Pacific Railroad Company (Rock Island) between Leeds Junction, MO, (near Kansas City) and St. Louis, MO, and (2) all of Rock Island's stock in the Terminal Railroad Association of St. Louis (TRRA). MP has filed a directly related application in Finance Docket No. 29028 (Sub-No. 1) to assume the obligation of Rock Island for certain securities of TRRA.

These have been filed as inconsistent applications to the applications in Finance Docket No. 28799 (Sub-No. 1), *et al.*, St. Louis Southwestern Railway Company—Purchase (Portion)—William M. Gibbons, Trustee of the Property of

Chicago, Rock Island and Pacific Railroad Company, Debtor. In Finance Docket No. 28799 (Sub-No. 1), St. Louis Southwestern Railway Company (Cotton Belt) seeks authority to purchase Rock Island's line of railroad between Santa Rosa, NM, and St. Louis, MO, via Kansas City, MO. Notice of this application, as well as the directly related applications was published in the Federal Register on January 26, 1979 at 44 FR 5563 (1979). The line sought to be acquired by MP in Finance Docket No. 29028 is a portion of the Rock Island line which Cotton Belt seeks to purchase.

These two applications will be consolidated for disposition with the applications in Finance Docket No. 28799 (Sub-Nos. 1 through 6). The latter matters are the subject of an oral hearing presently being conducted by Administrative Law Judge Peter A. Fitzpatrick. Future procedural matters in Finance Docket Nos. 29028 and 29028 (Sub-No. 1) should be directed to Judge Fitzpatrick. Interested parties will be advised as to when a pre-hearing conference on the applications in Finance Docket Nos. 29029 and 29028 (Sub-No. 1) will be held.

The Commission is accepting these applications for consideration, although they are deficient in several ways. The Commission's regulations provide that in the case of an inconsistent application, the Commission may afford an applicant additional time to file materials to complete the application. 49 CFR 1111.4(b)(4). MP, by decision served May 25, 1979, has been advised of the specific deficiencies and given 30 days to complete the application.

The Commission will exercise its authority under 49 U.S.C. 11345 and waive the initial decision in these proceedings. The determination of the merits of the applications will be made in the first instance by the entire Commission.

MP and its subsidiaries operate a railroad system serving the following states: AR, CO, IL, KS, LA, MS, MO, NE, NM, OK, TN, and TX. MP has an existing line between Kansas City and St. Louis which parallels the line proposed to be acquired from the Rock Island, MP is controlled through stock-ownership by Missouri Pacific Corporation, 9900 Clayton Road, St. Louis, MO 63124.

Persons may participate formally in the proceedings by submitting written comments regarding the application. Submissions shall indicate both the designation for this proceeding (F.D. No. 29028) and F.D. No. 28799 (sub-No. 1), and the original and 15 copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than July 10, 1979 (45 days after the date notice of the filing of the application is published in the Federal Register). Comments shall include the following: the person's position, e.g. party protestant or party in support regarding the proposed transaction; specific reasons why approval would or would not be in the public interest. Additionally, persons who do not intend to participate formally, but who desire to comment, may file a statement and information, subject to the same filing and service requirements. Persons submitting written comments to the Commission shall, at the same time, serve copies of the written comments upon the applicants, the Secretary of Transportation, the Attorney General, and all the parties in Finance Docket No. 28799 (Sub-No. 1).

Dated: May 17, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Christian not participating.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-16320 Filed 5-23-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-222, May 17, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., May 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 33465, *Continental-Western Merger Case.* Continental-Western motion to terminate consulting agreement. (OGC)

3. Docket 34783, KLM application for an amended foreign air carrier permit. (Memo No. 8817, BIA, OGC, BLJ)

4. Docket 34459, Application of Jetsave LTD. (United Kingdom) to renew and amend its indirect foreign air carrier permit. (Memo No. 8811, BIA, OGC, BLJ)

5. Dockets 32794, 32752, and 30435; Show-cause order 78-8-128) proposing to make TXI's authority at Jackson, Mississippi, permissive; Show-cause order 78-9-135) proposing to make Pan America's Fairbanks-New York/Seattle/Portland authority permissive, and order (77-5-22) suspending Pan American in the New York-Fairbanks market. (Memo No. 8804, BDA, OGC)

6. Docket 31298, Sky West's application for subsidy-eligible authority at Cedar City, Utah and subsidy-ineligible authority at St. George, Utah. (Memo No. 8033-C, BDA, OGC)

7. Dockets 35058, 33607, 33914, 33996, 35172, 35191, 35206, 35207, 35202, 35215, 35211, 35219, and 35187; Continental, American, Ozark, TXI, Hughes Airwest, Delta, Allegheny, Braniff, Eastern, North Central, Western, and Northwest, requesting authority between Albuquerque and Los Angeles, Ontario, Burbank and Las Vegas. (BDA)

8. Dockets 34354, 34341, 34464, 34463, 34631, 34605, and 34597; Applications of Continental and Ozark for Denver-Little Rock-Memphis-Nashville authority; applications of Continental, Trans World, and Ozark for Kansas City-Memphis-Nashville authority; Application of Braniff for Nashville/Memphis-Little Rock-Ft. Smith/Tulsa/Oklahoma City/Amarillo/Colorado Springs/Denver authority. (Memo No. 8813, BDA)

9. Docket 34674, Allegheny's Petition for Show-Cause Procedures on its Application for Phoenix-Tucson Authority. (Memo No. 8805, BDA)

10. Docket 35100, Allegheny's application for Boston/Philadelphia/Pittsburgh-Tampa authority. (Memo No. 8814, BDA)

11. Docket 35469, Application of Altair Airlines for an exemption under section 416(b) of the Act authorizing Norfolk, Va.-Washington, D.C. service. (Memo No. 8816, BDA)

12. Docket 34800, Allegheny Airlines' Application and Petition for an Order to Show Cause for Nonstop Norfolk-Washington Authority. (Memo No. 8812, BDA, OCCR)

13. Docket 35073, Allegheny Airlines' application and petition for an order to show cause for nonstop Norfolk-New York authority. (Memo No. 8815, BDA, OGC)

14. Docket 32774, Norfolk's Petition for Reconsideration of Order 79-1-99 dismissing its Adequacy of Service Petition. (Memo No. 8290-E, BDA, OGC)

15. Dockets 34770, 33490, 33535, 33738, 33585, 33730, 33505, 35038, 35027, 35024, and 35020; Allegheny, Braniff, Continental, Northwest, Ozark, Trans World, Delta, North Central, Southern, and Western, requesting authority between Reno and Chicago. (Memo No. 8179-B, BDA)

16. Dockets 33580, 33629, 33672, 33821, 33863, 33878, 33997, 34845, 34866, and 34932; Applications for nonstop Denver-Detroit authority. (Memo No. 8423-B, BDA, OGC, BLJ)

17. Dockets 34336 and 35210; Finalization of Show-Cause Order 79-3-97, tentatively adding Providence as an intermediate point on Air New England's Route 172 (Docket 34336) and proposing to grant the Providence authority at issue to applicants whose fitness can be established by officially noticeable material. (Memo No. 8579-A, BDA)

18. Dockets 34791 and 34792; United's notices, under 401(j)(1) and (2), of its intent to terminate all air service at New Orleans, LA. (Memo No. 8819, BDA, OCCR)

19. Dockets 33553, 33557, 33566, and 34532; Applications of Braniff, Hawaiian, United and Aeroamerica for Seattle-Portland-Hawaii Certificate authority. (BDA)

20. Dockets 34771 and 35204; National's application to amend its certificate for Route 39 to include Birmingham-Dallas/Ft. Worth/Houston authority and motion to consolidate into the Service to Birmingham Show-Cause Proceeding. (Memo No. 8821, BDA)

21. Dockets 35104, 35291, 35299, 34518, and 35276; Continental, North Central, Ozark, and Western, requesting authority between Dallas/Ft. Worth and Oklahoma City. (BDA)

22. Docket 31400, *Colorado Ski Points Investigation*—Petitions for Discretionary Review. (Memo No. 4660-H, OGC)

23. Docket 34892, Texas International's notice of intent to suspend service at Harlingen/San Benito, Texas. (BDA, OCCR)

34. Dockets 34707 and 34852; City of Waterloo's motion for reconsideration of Order 79-3-186. (BDA)

25. Dockets 34864, 35131, 35087, and 30886; Piedmont Aviation and Allegheny Airlines, notices to suspend service at Newport News, Va. agreement between Allegheny and Henson Aviation. (BDA, OGC, OCCR)

26. Docket 35280, Hughes Airwest's notice to terminate its certificate obligation at Cedar City, Utah, under section 401(j)(1). (BDA, OCCR)

27. Docket 33418, Application of the Airline Tariff Publishing Company (ATPCO) to conduct multicarrier discussions on joint fares. (Memo No. 8820, BDA, OGC)

28. Petition of British Caledonian Airways, Limited for review of staff action denying its request for special tariff permission to file a one-way cargo charter charge from Houston to Singapore. (BDA, BIA, OGC)

29. Docket 35192, Complaint of China Airlines, Ltd., against North/Central Pacific fares proposed by Continental Airlines, Inc. China contends that the fares are predatory. (BDA, BIA).

30. Dockets 30332, 32660; Pan American and TWA tariff filings proposing fuel-related increases in transatlantic fares and rates; IATA agreements proposing worldwide fuel-related fare and fare increases. (BDA, BIA)

31. Docket 33340, Tariff limits for filing overcharge freight claims of certain carriers in foreign transportation. (Memo No. 8392-A, BDA, BIA, BCP)

32. Request for public comments on Board's final report to Congress on direct marketing of charter tours. (OGC, BDA)

33. Notice of proposed rulemaking to reduce minimum charter contract size for Overseas Military Personnel Charters. (OGC, BDA)

34. Dockets 30176 and 27617; rulemaking on off-route charters within Alaska by Alaskan air carriers generally; off-route charters within Alaska by Alaska Airlines. (OGC, BDA)

35. Docket 35319, Continental's, Northwest's and Western's motion to withhold from public disclosure current service segment data in LAX/SFO-HNL markets required to be filed by Order 79-4-67. (BCP)

36. Dockets 28298, 28593, 30497, 31628, 32569, 29039, 30041, 30743, 31629, 29219, 30042, 31621, 31630, 29288, 30044, 31624, 32100, and 29386; Petition of Action on Smoking and Health for review of staff action. (OM, BCP)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-1033-79 Filed 5-22-79; 2:57 pm]

BILLING CODE 6320-01-M

2

[M-222, Amdt 1; May 21, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the May 24, 1979, meeting.

TIME AND DATE: 9:30 a.m., May 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 11. Docket 35469, Application of Altair Airlines for an exemption under section 416(b) of the Act authorizing Norfolk, Virginia-Washington, D.C. service (Memo 8816).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 11 is being deleted from the May 24, 1979 agenda because it requests expeditious treatment of its exemption application so that the necessary arrangements can be made prior to the commencement date, including compliance with the OAG filing deadline of May 22, 1979. Accordingly, the following Members have voted that agency business requires Item 11 deleted from the May 24, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1034-79 Filed 5-22-79; 2:57 pm]

BILLING CODE 6320-01-M

3

[M-222, Amdt. 2; May 21, 1979]

CIVIL AERONAUTICS BOARD.

Notice of Addition of Items to the May 24, 1979, Meeting.

TIME AND DATE: 9:30 a.m., May 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 26a. Dockets 34759 and 26471—Evergreen International Airlines (BDA); 27a. Docket 32384—Request for instructions regarding class-rate policy during transitional period (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 26a is being added to the May 24 agenda because this is necessitated by the immediate need to obtain bank financing. It is imperative that the sensitive policy issues involved in Item 27a be resolved so that a final rate can be developed as quickly as possible. The class rate has been open since July 1, 1978. Accordingly, the following Members have voted that agency business requires the addition of Items 26a and 27a to the May 24, 1979 agenda and that no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1035-79 Filed 5-22-79; 2:57 pm]

BILLING CODE 6320-01-M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 29, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Commission consideration of judicial matters/cases.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1030-79 Filed 5-22-79; 2:42 pm]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., June 1, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1031-79 Filed 5-22-79; 2:42 pm]

BILLING CODE 6351-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:35 a.m. on Friday, May 18, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a memorandum regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York.

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Chairman Irvine H. Sprague, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter was eligible for consideration in a closed meeting pursuant to subsection (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(10)).

Dated: May 18, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1028-79 Filed 5-22-79; 9:50 am]

BILLING CODE 6714-01-M

7

FEDERAL ELECTION COMMISSION.

Federal Register No. FR-S-79-1009.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 24, 1979 at 10 a.m.

CHANGE IN MEETING: The following items have been added to the portion of the meeting open to the public:

1. Final audit report of the AFL-CIO COPE POC.
2. Final audit report for the Sasser for Senate Committee.
3. Revised response to Senate Rules Committee, Appendix B.
4. Presidential Monthly Status Report.
5. Proposed review to determine nature and extent of loan contributions and debt and obligation discrepancies.
6. March Management Report, Second Quarterly Report, Fiscal Year 1979. (continued from meeting of May 17, 1979.)

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-1026-79 Filed 5-22-79; 9:50 am]

BILLING CODE 1026-79-M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 30, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Waiver of the Filing Requirements of section 18(b) of the Shipping Act, 1916, with respect to Foss Launch & Tug Co., in the U.S. North Pacific-Canada Trade.
3. Agreement No. 8900-9: Modification of the "8900" Lines Rate Agreement to provide for intermodal authority.

Portion Closed to the Public

1. Docket No. 77-50: *North Carolina State Ports Authority, et al.* v. *Dart Containerline Company, Ltd.*—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1029-79 Filed 5-22-79; 11:50 am]

BILLING CODE 6730-01-M

9

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Monday, June 4, 1979.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue N.W., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: SES evaluations.

CONTACT PERSON FOR MORE INFORMATION: William A. Lubbers, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated, Washington, D.C., May 22, 1979.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-1030-79 Filed 5-22-79; 3:15 pm]

BILLING CODE 7545-01-M

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, May 31, 1979 [NM-79-16].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first seven items on the agenda will be open to the public; the eighth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Study*—Single-Engine, Fixed Wing General Aviation Accidents, 1972-1976.
2. *Aircraft Accident Report*—United Airlines, Inc., McDonnell-Douglas DC-8-61, N8082U, Portland, Oreg., December 28, 1978.
3. *Marine Accident Report*—Collision of M/V WORLD NOBILITY (Liberian) and SS PENNSYLVANIA GETTY at the mouth of the Chesapeake Bay near Norfolk, Va., December 29, 1978.
4. *Briefing* on the operation and activities of the Federal Highway Administration's Bureau of Motor Carrier Safety.
5. *Recommendation* to the Federal Aviation Administration re runway incursion accidents/incidents in the past 10 months.
6. *Regulations*—Revision of 49 CFR Parts 831 and 845, investigations, hearings, and reports of transportation accidents/incidents.
7. *Letter* to Materials Transportation Bureau re closeout of seven recommendations relating to hazardous materials.
8. *Opinion and Order*— Administrator v. Hale, Dkt. SE-3980; disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

May 21, 1979.

[S-1027-79 Filed 5-22-79; 9:50 am]

BILLING CODE 4910-58-M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 29210 May 18, 1979]

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, May 15, 1979.

CHANGES IN MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Thursday, May 24, 1979, at 10 a.m.:

Regulatory matter bearing enforcement implication.

Personnel matter.

Personnel matter bearing enforcement implication.

Litigation matter.

Formal Order and standby authority for subpoena enforcement action.

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

May 22, 1979.

[S-1032-79 Filed 5-22-79; 2:42 pm]

BILLING CODE 8010-01-M

12

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: June 4, 1979, 8 a.m.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Open.

MATTERS TO BE CONSIDERED:

8 a.m.—Meeting—Educational Affairs Committee

(1) Faculty Appointments; (2) Report—Service policies which require Service members with obligated service to complete their obligations before applying to USUHS School of Medicine; (3) Report—Graduate Program Update; (4) Report—Continuing Medical Education Program; (5) Report—Admissions.

8 a.m.—Meeting—Administrative Affairs Committee

(1) Report—Assistant Dean for Administration—Construction Update; (2) Report—Director, Resource Management—Presentation of the Program Objective Memorandum (POM).

8:45 a.m.—Meeting—Board of Regents

(1) Report—Educational Affairs Committee; (2) Report—Administrative Affairs Committee; (3) Report—Acting President; (4) Report—Dean, School of Medicine; (5) Report—Appointments for Assistant Dean for Student Affairs and Acting Chairmen; (6) Report—Change in Class Size; (7) Report—Legislative Changes; (8) Report—Director, Resource Management—Faculty Compensation; (9) Report—Associate Dean, School of Medicine—Status Report: Institutional Self-Study; (10) Departmental Program Review—Malcolm B. Carpenter, M.D., Chairman, Department of Anatomy.

New Business

SCHEDULED MEETINGS: September 10, 1979.

CONTACT PERSON FOR MORE INFORMATION: Frank M. Reynolds, Executive Secretary of the Board, 202/295-2111.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 22, 1979.

[S-1037-79 Filed 5-22-79; 3:42 pm]

BILLING CODE 3810-70-M

federal register

Thursday
May 24, 1979

Part II

Water Resources Council

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C) and Proposed Revisions to the Standards for Planning Water and Related Land Resources

WATER RESOURCES COUNCIL

[18 CFR Part 704]

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C); Proposed Rules and Procedures of Implementation

AGENCY: U.S. Water Resources Council.

ACTION: Proposed Rule.

SUMMARY: The Water Resources Council proposes to publish as rules and regulations a manual of procedures for evaluation of National Economic Development (NED) benefits and costs in water resources planning (Level C) pursuant to section 103 of the Water Resources Planning Act of 1965 (Pub. L. 89-80). These procedures were promulgated at the direction of the President. The intent of the manual is to ensure consistency and accuracy among agencies in the calculation of benefits and costs of Federal water resources projects.

DATES: Comments are due on or before July 27, 1979.

Public meeting: July 10, 1979—Los Angeles, California; July 17, 1979—Washington, D.C.; July 24, 1979—St. Louis, Missouri.

ADDRESS: Interested persons are invited to submit written comments to the Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037. All written comments made pursuant to this notice will be available for public inspection at the address given above.

Public meetings will be held at the following locations:

July 10—9 a.m. to 5 p.m., Marriott Hotel-Airport, 5855 W. Century Blvd., Los Angeles, California.

July 17—9 a.m. to 5 p.m., Auditorium, Office of Personnel Management, (Formerly Civil Service Commission), 1900 E Street, N.W., Washington, D.C.

July 24—9 a.m. to 5 p.m., 1st Floor Conference Room, Mudd Law Building, Washington University, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Lewis D. Walker, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037 (202/254-6453).

SUPPLEMENTARY INFORMATION: On July 12, 1978 the President published a directive subject: "Improvements in the Planning and Evaluation of Federal Water Resources Programs and Projects." In this directive the President noted several deficiencies in the current process:

A. The requirement that project benefits exceed project costs has not been rigorously or uniformly applied. There are wide variations in the techniques of calculating benefits and costs, including double counting of benefits, and many projects now ready for construction funding were originally formulated and evaluated under economic data and criteria that are now outdated. In addition, consideration of nonstructural alternatives is seriously inadequate, even though these alternatives are often cost effective.

B. In the planning and review of water resources projects in the past, too little attention has been paid to environmental values such as protecting fish and wildlife habitat and free-flowing rivers for recreational enjoyment. Water conservation, which makes sense both environmentally and economically, has not been emphasized in Federal water projects and in some cases the Federal government has created disincentives to conservation.

Additional direction was given by the President in Executive Order 12113 published January 5, 1979. The EO directs the Water Resources Council to do the following:

A. The Council shall ensure that it has established a current set of principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects (42 U.S.C. 1962a-2).

B. The Council shall develop a planning manual for use by each agency (a) in calculating benefits and costs by using the best available techniques and (b) in applying the principles and standards in a consistent manner.

These proposed rules have been determined to be significant under Executive Order 12044. A copy of the draft regulatory analysis and an environmental assessment may be obtained from the Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

The content and organization of the Manual of Procedures will be developed in final form after full consultation with the Member agencies and after public review and comment has been obtained. Each procedure presented will be the "best current technique(s)" for evaluating the benefits and costs of Federal water resources projects. This publication represents the beginning of a 60-day review to receive input from all interested persons. To facilitate early comment from the public and interested parties these draft procedures are being published in a form which would permit the addition of new sections, changes to improve technical quality, or detailed provisions to enhance its utility to agency planners. Major changes and additions will be subject to the same preparation and review requirements as these initial draft procedures. A partial listing of prospective changes now under consideration include:

a. Including definitions, especially as related to criteria distinguishing purposes for cost sharing: conservation, drainage, flood, flood control, nonstructural, separable feature, water supply.

b. Addition of deepwater navigation project benefit-cost procedures

c. Addition of beach erosion control project benefit-cost procedures

d. Various changes emphasizing final project benefits over intermediate project outputs

e. Adding additional detail in various sections

f. Expanding the treatment of costs in the manual

g. Providing for display of significant economic relationships between the planned project and other facilities.

During July 1979, public meetings will be held on the Principles and Standards revisions and the Manual of Procedures for Evaluating Benefits and Costs in Water Resources Planning (Level C) to solicit comments. These meetings are scheduled for Los Angeles, CA, St. Louis, MO, and Washington, DC, according to the following schedule:

July 10-9 a.m. to 5 p.m., Marriott Hotel-Airport, 5855 W. Century Blvd., Los Angeles, California.

July 17—9 a.m. to 5 p.m., Auditorium, Office of Personnel Management (Formerly Civil Service Commission), 1900 E Street, N.W., Washington, D.C.

July 24—9 a.m. to 5 p.m., 1st Floor Conference Room, Mudd Law Building, Washington University, St. Louis, Missouri.

The amount of time for oral statements during the meetings will be limited. Anyone planning to make a statement should write or telephone and indicate which meeting will be attended and the time of day preferred:

Wanda Phelan, Public Information Officer, Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037, 202/254-8290.

The Council will schedule the time as closely as possible to that requested and will notify speakers as to the time allotted.

It is proposed that Part 704 of 18 CFR be amended by adding a new Subpart G to read as follows:

Subpart G—Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C)

Purpose

Sec.
704.100 Authority and Relationship to the Principles and Standards.
704.101 Agency Activities Covered by the Manual.
704.102 Responsibility for Application of the Manual; Development of Agency Procedure.
704.103 Schedule for Application of the Manual.
704.104 Modification of the Manual.
704.105–704.110 [Reserved]

General

704.111 Calculation of Net Benefits.
704.112 Risk and Uncertainty—Sensitivity Analysis.
704.113 Dam Failure.
704.114 Project Scaling Using Net Benefits Analysis.
704.115 Project Design Flood.
704.116–704.120 [Reserved]

NED Benefit Evaluation Procedures

704.121 Municipal and Industrial (M&I) Water Supply.
704.122 Agricultural Water Supply (Irrigation).
704.123 Agricultural Flood Damage.
704.124 Agricultural Drainage.
704.125 Urban Flood Damage.
704.126 Power, Hydropower.
704.127 Transportation, Inland Navigation.
704.128 Transportation (Deep Water Ports) [Reserved].
704.129 Recreation.
704.130 Commercial Fishing and Trapping [Reserved].
704.131 Increases in Output Resulting from External Economies.
704.132 Unemployed or Underemployed Labor Resources.
704.133–704.140 [Reserved]

NED Cost Evaluation Procedures

704.141 Determination of National Economic Development (NED) Costs of Water Resources Plans.
704.142–704.145 [Reserved]

Authority: Sec. 103, Pub. L. 89–80; 79 Stat. 245; 42 U.S.C 1962a–2.

Subpart G—Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resource Planning (Level C)

Purpose

§ 704.100 Authority and relationship to the principles and standards.

On July 12, 1978, President Carter directed the Water Resources Council and its member agencies to "carry out a thorough evaluation of current agency practices for making benefit and cost calculations" and "publish a planning manual that will ensure that benefits and costs are calculated accurately, consistently and in compliance with the Principles and Standards and other applicable economic evaluation requirements." This manual of procedures supplements and implements the Principles and Standards established by the Water Resources Council (WRC) pursuant to Section 103 of the Water Resources Planning Act (Pub. L. 89–80).

§ 704.101 Agency activities covered by the manual.

(a) These proceudures are to be used for the evaluation of beneficial and adverse effects of Federal and Federally assisted water resources projects covered in the Standards, Section I.B.2. of the Principles and Standards and Agency for International Development Projects covered by Section 101 of Pub. L. 95–148. The procedures apply to Level C (project) planning if such projects are subject to the Principles and Standards. They are applicable to: (1) projects which may be approved by agency administrators, (2) projects requiring congressional authorization, (3) authorized projects or separable project features of such projects not yet under construction for which agencies currently prepare postauthorization planning documents. For the purpose of implementing this manual, a project shall be considered under construction when funds have been appropriated by the Congress or budgeted by the President for land acquisition or physical construction activity. Projects for which postauthorization planning documents are not required shall be considered under construction when authorized for construction.

(b) The Secretary of each Department shall retain the discretion to review those projects not under construction and, where deemed reasonable, may exempt a project from complying with this Manual of Procedures or may partially exempt a project and direct expedited additional planning to more fully meet specific procedures. This discretionary authority applies to those projects not yet authorized for which preauthorization planning is now complete or will be complete by the end of FY 1980 and those authorized projects requiring postauthorization planning if such planning is now complete or will be complete by the end of FY 1980. Preauthorization or postauthorization planning shall be considered complete when the appropriate planning documents have been approved by the responsible agency's field office. Such Secretarial review is provided to ensure that adequate and reasonable discretion exists to prevent undue loss of time or expenditure of public funds in those cases where additional planning is not considered necessary. This discretionary authority may not be exercised after July 31, 1981.

(c) Authorized projects exempted from complying with the Principles and Standards are also exempted from complying with these procedures.

§ 704.102 Responsibility for application of the manual; development of agency procedures.

The administrator of each Federal program or Federally assisted program covered is responsible for applying the procedures coverd in the manual. Each Federal administrator shall adopt these procedures and follow them in establishing agency procedures necessary to supplement and implement these procedures. Agency procedures shall comply with these procedures except where compliance would be inconsistent with statutory requirements. The development of agency procedures shall incorporate WRC review to insure consistency.

§ 704.103 Schedule for application of the manual.

Those procedures contained herein which are dependent upon Water Resources Council supplied data bases shall be adopted by the responsible agency administrators immediately upon publication of the necessary data bases. All other procedures are to be applied by the responsible agency administrators immediately upon their adoption by the Water Resources Council.

§ 704.104 Modification of the manual.

These procedures will be subject to periodic revisions as experience, research and planning conditions require such revision. Such revisions as are necessary to insure the use of the best current techniques, and accurate and consistent calculations shall be made by the Water Resources Council as needed.

§§ 704.105–704–110 [Reserved]

General

§ 704.111 Calculation of net benefits.

(a) *Introduction.* Water resource management plans often take several years to install. During the installation period, costs are often incurred with no immediate realization of benefits. Once installation is complete, however, a time stream of future benefits and costs results. This section provides guidance for the calculation of net benefits in

recognition of the variation in timing of project costs and benefits.

(b) *Conceptual basis.* Proper NED analysis requires that project NED benefits and costs be compared at a common point in time. In order to do this the following information is required:

(1) *Installation period.* The number of years required for installation of the plan. Where staged installation is proposed over an extended period of time, the installation period will be limited to that needed to install the first phase.

(2) *Installation Expenditures.* The dollar expenses expected to be incurred during each year of the installation period.

(3) *Period of Analysis.* The time horizon for project benefits, deferred installation costs, and OM&R (operation, maintenance, and replacement) costs, commencing at the end of the installation period and extending up to 100 years into the future. The period of analysis will be further restricted for purposes of NED analysis to be the lesser of (i) the period of time over which the plan will serve a useful purpose, considering probable technological trends that affect various alternatives, or (ii) the period of time when further discounting of beneficial and adverse effects will have no appreciable impact on project scaling.

(4) *Benefit stream.* The pattern of expected benefits over the period of analysis.

(5) *OM&R costs.* The expected costs over the period of analysis for operation, maintenance, and replacement necessary to maintain the benefit stream and agreed upon levels of mitigation.

(6) *Discount rate. That rate published annually by the Water Resources Council for use in evaluating Federal water projects.*

(c) Net NED benefits of the plan are calculated in present value terms. To perform this calculation, the benefit stream, deferred installation costs, and OM&R costs should be discounted to the beginning of the period of analysis using the applicable project discount rate. Installation expenditures should be brought forward to the beginning of the period of analysis by charging compound interest at the project discount rate from the date the costs are incurred.

§ 704.112 Risk and uncertainty—sensitivity analysis.

(a) *Introduction. This section provides guidance for the evaluation of risk and uncertainty in the formulation of water resources management and development plans. The purpose of the guidance is to provide the basis for more fully informed decisions on water resources management and investment by taking explicit account of risk and uncertainty.*

(b) *Conceptual basis.* (1) *Risk.* Situations of risk are conventionally defined as those where the potential outcomes can be described in terms of reasonably well known probability distributions. For example, if it is known that a river will flood to a particular level on the average of once in 20 years, this is a situation of risk rather than of uncertainty.

(2) *Uncertainty.* In situations of uncertainty, potential outcomes cannot be well described in terms of objectively known probability distributions. Uncertainty is characteristic of many, aspects of water resources planning. Because of the absence of known probability distributions to describe uncertain outcomes, the presence of uncertainty poses a substantially more difficult analytical problem than does risk.

(3) *Sources of risk and uncertainty.* (i) Risk and uncertainty arise from measurement errors, as well as from the underlying variability of the complex natural, social, and economic situations in which water management and development plans are formulated. If the analyst is uncertain because the data are imperfect or the analytical tools crude, then this is measurement error. Variations due to measurement error can be addressed by attempts to improve data and analytic techniques.

(ii) Natural randomness or stochasticity as a source of variance calls for different treatment. The future is essentially unknowable as regards demographic and economic events of the occurrence of particular hydorlogic or meteorological events at particular times because these events are subject to random influences. The question is whether the randomness can be described by some probability distribution. If there is an historical data base that is applicable for the future, then distributions can be described or approximated by objective techniques.

(iii) If there is no such historical base, then the probability distribution of future outcomes of demographic, economic or technological processes must be described subjectively. The success of any such effort depends upon the planner's insight and judgment.

(4) *Dimensions of risk and uncertainty, project evaluations.* The degree of risk and uncertainty will generally differ among various aspects of a project. In addition, the degree of risk and uncertainty about aspects of a project will differ over time, that is, benefits from a particular purpose or a particular category of costs might be relatively certain during one time period and quite uncertain during another. Finally, the level of uncertainty will differ at different stages of the analysis—for example, between rough screening and final detailed design where more precise analytic methods are applied.

(5) *Attitudes.* The attitudes of decisionmakers to risk and uncertainty govern the final selection of projects and of design adjustments to risk and uncertainty. In principle, the government can be neutral toward risk and uncertainty, can take positions on either side of neutrality, or can adopt different positions with respect to various programs and/or aspects of programs. Whereas, the government might be neutral toward risk and uncertainty, the private sector might not share this neutrality. Such differences in attitudes should be taken into account in estimating the potential success of projects.

(6) *The role of the planner.* The planner's role in dealing with risk and uncertainty is primarily to characterize to the extent possible the different levels of risk and uncertainty relating to a project and to describe these in a clear way to decisionmakers in order to facilitate more fully informed decisions on projects and programs. In addition, the planner should suggest various adjustments in project design that might reflect different attitudes on the part of decisionmakers to risk and uncertainty. Finally, the planner should incorporate adjustments in project designs that reduce downside risk without cost in terms of expected values.

(c) *Planning setting.* (1) As a general rule, it should be assumed that the setting in which water resources projects are developed implies some risk and uncertainty as to nearly every aspect of a project. Some types of risk and uncertainty will be dealt with in terms of national planning parameters—for example, ranges of population projections and other principal economic and demographic variables. Other types of risk and uncertainty will be dealt with in terms of project or regional estimates and forecasts. Where projects are related to other projects and programs in their risk and uncertainty aspects (i.e., interrelated hydrologic systems) reasonable attempts should be made to see that the same analyses and presumed probability distributions are used for the different related projects and programs.

(2) The risk and uncertainty aspects of projects are likely to be seen and analyzed differently as planning proceeds from rough screening to detailed project proposals. An effort should be made, therefore, to relate the techniques used in characterizing and dealing with risk and uncertainty to the stage of the planning process.

(3) The resources available for analyzing risk and uncertainty, should be allocated to such assessments that appear to be the most important with respect to their effects on project and program design. It should not be assumed beforehand that one or another variable is a more important source of risk and uncertainty. Rather, it is better to investigate and react accordingly by allocating study efforts where they will be most useful in dealing with measurement errors and natural sources of risk and uncertainty.

(d) *Evaluation procedures.* (1) Those aspects of project evaluation that can be characterized by a probability distribution based on reasonably firm data, such as hydrologic risk, should be treated by standard methods of risk evaluation that have been developed by Federal agencies and others. Most aspects of projects that are surrounded by risk and uncertainty, however, cannot be characterized by probability distributions that have a reasonable empirical basis.

(2) A first step in dealing with this problem is to describe why the project or aspects of it are uncertain, as well as the time periods in which different degrees of uncertainty are thought to be present. A range of reasonably likely outcomes can then be described by using sensitivity analysis—the technique of varying assumptions as to alternative economic, demographic, environmental, and other factors, and examining the effects of these varying assumptions on outcomes of benefits and costs. In some cases and some stages of planning, this approach, when accompanied by a careful description of the dimensions of uncertainty, will be sufficient. It can be accompanied by design adaptations of the project that would represent different types of preferences as to uncertainty.

(3) An additional step is to characterize the range of outcomes with a set of subjective probability estimates. Where it is appropriate to do this, methods for manipulating the subjective probability estimates can then be used. However, if numerical estimates of subjective probability are given, it should be made clear in the project report that these are subjective and thus do not have the same objective basis that characterizes a long hydrologic record. Moreover, subjective probability distributions should be chosen and justified carefully in each case; and some description of the impacts on design of using other subjective distributions in the particular case should be given. As with the previous approach, various design alternatives that would reflect different preferences toward uncertainty can be suggested, along with a description of the type of preferences that would make each adaptation appropriate.

(4) As a further step, utility functions can be used in conjunction with assessments of uncertainty to explore the design adaptations that would be relevant to different types of utility or preference functions. If public preferences are well known, these could be used to illustrate to decisionmakers what the best design would be given the uncertanities and preferences in the particular case. If preferences are not well known, justification for selection of various utility functions should be given. These should be used only to illustrate the effects on design of various preferences.

(5) At any level of analysis, the planner should take into account the differences in risk and uncertainty among project purposes and costs, among time periods, and among different stages of planning.

(6) One guide to the use of the techniques presented here is contained in Table 1. The guiding concept is that more complex techniques will generally be employed as planning proceeds from initial development and screening of alternatives to the analysis and presentation of the final set of alternative plans. For example, sensitivity analysis may be most useful and applicable in the earlier stages of planning where the concern is to understand single factors or relatively general multiple-factor relationships. Multiple-factor sensitivity analysis in which the joint effects or correlations among underlying parameters are studied in greater depth, may be much more important in the detailed analytic stage than in the screening stage.

(7) Similarly, analysis of risk and uncertainty employing subjective or objective probability distributions is more appropriate in the detailed analytic stage. Although hydrologic and economic probabilities may be used in the screening stage, the full use of independent and joint probability distributions, possibly employing computer simulation methods to describe expected values and variances, should be primarily reserved for the detailed stage.

Table 1.—*Planning Task and Approaches to Risk and Uncertainty*

Approach	Planning Tasks		
	Screening alternatives	Detailed analysis of projects	Final presentation of alternatives
Sensitivity analysis	X	X	
The use of objective and subjective probability distributions		X	
Illustrative application of preferences and decision rules		X	X

(8) Although preferences and decision rules can be used to give perspective on alternative designs throughout the planning process, the formal importance of using these will be greater at the stage of displaying alternative designs responsive to alternative preferences about risk and uncertainty. Here, the planner must be familiar with the role of risk and uncertainty in decisions in order to develop the appropriate displays of information.

(e) *Problems in application.* (1) *Distinguishing among assessments of risk and uncertainty, design adaptations, and attitudes.* The differences among the underlying risk and uncertainty, the design adaptations to these, and the preferences of decisionmakers should be kept clear throughout the analysis. The first two depend primarily on technical expertise and the last is the set of preferences that determines the final design in terms of attitudes toward risk and uncertainty.

(2) *General and specific adjustments.* Adjustments in project evaluation to risk and uncertainty can be characterized as general and specific. General adjustments have been used to reflect conservative attitudes toward risk and uncertainty.

They include the addition of a premium rate, overestimations of costs, underestimation of benefits, and limitation on the period of analysis. Such general adjustments are not usually appropriate for public investment decisions because they tend to obscure the differences in uncertainty that characterize different aspects of projects and programs. It is preferable instead to make explicit assessments of the different degrees of uncertainty that are thought to characterize different aspects of project or program, and to suggest adjustments specific to each aspect. These specific adjustments should be designed to illustrate the

consequences of alternative preferences with respect to risk and uncertainty.

(f) *Report and display procedures.* The basic principle of reporting and displaying the assessment of risk and uncertainty in project evaluation is that these assessments should be fully reported in a manner that makes clear to the decisionmaker the types of risks and uncertainty that are believed to affect the project, the adjustments in project design that might be made to adapt to the effects of risk and uncertainty, and the gains and losses in various dimensions that might accrue from these various adjustments. The report and display sections should, where feasible, describe the types of risk and uncertainty that are thought to affect each aspect of the project, where these differ from aspect to aspect and as to time period.

§ 704.113. Dam failure.

(a) A study was made to determine whether or not a practical procedure for quantifying the project economic costs of dam failure could be developed. This study resulted in the development of a procedure based on a consistent estimate of probability of failure. However, it has been concluded that the available historical record is not a sufficient basis for estimating the future probability of failure of all dams constructed by Federal agencies, particularly in view of the recent emphasis on dam safety. Since the probability of failure cannot be adequately quantified, a practical procedure cannot be offered at this time.

(b) Although probability of failure cannot be adequately quantified, the construction of dams and other structures obviously intoduces some risk of losses associated with failure. Since these losses cannot be quantified in terms of project enconomic costs, an effort will be made to develop procedures for quantfifying such losses in terms of increases in hazards to life, health, safety, and catastrophic economic and environmental losses when this manual is completed.

§ 704.114 Project scaling using net benefits analysis.

(a) The maximization of net benefits approach will continue to be used for scaling the level of development for the NED alternative within a given project as prescribed in the P&S. An alternative other than the NED may be recommended for implementation, however, to (1) achieve a greater level of service to the EQ objective or (2) satisfy other project scaling criteria (i.e., design flood).

(b) When such departures are made, the relevant impacts (economic, environmental and social) of the recommended alternative will be displayed against those of the NED in such a manner so as to permit a comparison of the tradeoffs. Other alternatives which are important to selection of the recommended alternative will continue to be displayed for comparison purposes.

§ 704.115 Project design flood.

(a) Structural and nonstructural flood hazard reduction components may be sized to protect against inundation by floods of various magnitude. Design sizes to protect against larger floods achieve greater economic benefits and provide greater safety for the lives and property of the people protected. However, they do so at a greater cost and sometimes greater environmental and social disruption. Project sizing is the process of determining the design level of protection that achieves the best balance between a project too small to achieve acceptable benefits and safety, and a project so large as to be an unnecessary burden to the taxpayer and to the natural and social environments.

(b) The criterion of economic efficiency is one approach to resolving the design flood issue. This approach provides a basis for identification of the design flood that maximizes project net benefits. The theoretical soundness of departures from this approach to design flood selection depends on whether or not the specific criteria being used are legitimate, and if optimality with respect to them varies from optimality with respect to economic efficiency. A common example of criteria used in flood control project scaling is the personal safety and peace of mind of residents in flood-prone areas. Determining the soundness of specific departures from economic optimality requires empirical information on how economic benefits, hazards to life, and other objectives are handled in project scaling.

(c) There are alternative criteria to economic optimality which have relevance to scaling decisions for flood control projects. Wherever a project design flood level differs from the level of protection at which net economic benefits are maximized, there shall be a display and comparison of the plan which maximizes net economic benefits and the plan which departs from net economic benefit maximization. The economic, environmental, and social effects of each plan shall be displayed in such a manner as to permit a comparison of the tradeoffs involved in choosing either alternative.

§§ 704.116–704.120 [Reserved]

NED Benefit Evaluation Procedures

§ 704.121 Municipal and industrial (M&I) water supply.

(a) *Introduction.* (1) This section provides procedural guidance for the evaluation of NED benefits to municipal and industrial (M&I) water supply features of Federal water resource management plans. External economies and employment benefits are covered in sections 704.131 and 704.132, and have therefore been omitted from this discussion. The procedures apply equally to both structural and nonstructural plan elements.

(2) Municipal water incudes that water which is withdrawn from a community water supply by residential, commercial, institutional, governmental, and other nonindustrial users. Industrial water use is meant to include any water use by manufacturing firms which may be self-supplied by those firms, which is separately supplied to those firms, or which is withdrawn from the community system but separate from municipal water use for analytical purposes. In some cases, the use of water from a community system by manufacturing firms is considered separately; in others all or some of it is included as municipal water use.

(3) The benefit value to be estimated using this procedure represents the M&I benefits of Federal projects at the raw water or wholesale value.

(b) *Conceptual basis.* (1) The NED benefit is the increase in the value of goods and services attributable to M&I water plan elements under anticipated future conditions with the plan versus without. Such benefits are expressed through society's willingness-to-pay for water, adjusted as is appropriate for consideraiton of quality and probability of delivery. To estimate water supply benefits on the basis of a willingness-to-pay measure requires that the actual demand curve(s) be known throughout the required range.

(2) If a single price were employed, however, and that price would be reasonably predicted for the forecast period, the forecasting procedure would yield a single point on the demand curve: the forecast price and forecast quantity. The remainder of the demand curve would be determined in accordance with the assumed response of quantity demanded to variations in price. (The measure of price response usually employed is the price elasticity of demand, obtained empirically at a

single point, the mean of a set of data having a relatively small range.)

(3) In most market situations, water users are not obliged to reveal the extent of their true willingness-to-pay for the water used. Comparison of historical records of water use in relation to price indicates only the marginal willingness-to-pay. In the absence of the direct measures of willingness-to-pay, therefore, indirect measures will be used.

(4) The alternative cost approach will serve this purpose. This approach utilizes a community's willingness-to-pay for alternative levels of supply or reductions in demand as the basis for benefits. The alternative cost measure of benefits is conceptually correct if two conditions hold: first, the gross benefits of the alternative must be the same as those of the project under consideration; and, second, the alternative must be one that would be installed if the project under consideration is not undertaken. This second condition requires that the alternative be the most likely alternative.

(5) The NED benefits of nonstructural M&I water supply plans are measured in principle by society's willingness-to-pay for them. The alternative cost measure can be employed directly if it can be assumed that the willingness-to-pay of water supply users for reducing demand is the same as their willingness-to-pay for meeting demands. Where this is not entirely the case, suitable adjustment must be made to account for the differences between water users' willingness-to-pay for reducing demand and their willingness-to-pay for meeting demands.

(6) All alternatives are to be evaluated on the same NED cost concepts.

(c) *Planning Setting.* (1) *Without Project Condition.* The without projection condition is defined as the most likely conditon expected to exist in the future in the absence of a water resource management plan and any changes in laws and public policy. Several specific assumptions are to be considered in the without condition.

(i) *Existing water supplies.* Existing water supplies are assumed to be part of the without project condition. Adjustments should be made to account for anticipated changes in water supply availability due to age or increasing environmental restrictions.

(ii) *Additional water supplies.* The without project condition will also generally include those water supplies which are under construction unless there is reasonable doubt that construction will be completed.

(iii) *Conservation measures.* The without project condition must include the effects of implementing all reasonably expected nonstructural and conservation measures required by or encouraged by Federal, State, and local policies, and by private actions. Care should be taken to verify and support the responsibleness of the expected implementation of each measure, and the probable time of implementation.

(iv) *Defining Existing Demand.* (A) Water supplied for municipal and industrial purposes within a community is the aggregation of many uses within may use sectors, each such use being potentially responsive to different sets of explanatory variables. Water use increases with the number of water using activities, and with the intensity of use within each activity. Water uses are typically aggregated to some degree, and associated with some scale variable which represents the number and relative magnitude of uses within the aggregation. Intensity of use is represented by additional descriptive and economic variables.

(B) Water use at the present time can be explained, when suitably disaggregated, in terms of variables which represent the principal determinants of water use. Present water use will generally include, but not be limited to, the following sectors and include an analysis of the appropriate determinants.

(1) Residential Sector. This generally includes:

(i) Number of households subdivided into single-family detached dwellings and multifamily dwellings

(ii) Number of persons per household

(iii) Delineation of seasonal water use for lawns and garden use, maximum summer temperatures, summer precipitation, etc.

(iv) Intensity of water use by: number of water-using fixtures in use by each household, family income levels, and pricing policies.

(2) Commercial sector. This includes water use for retail and wholesale trade, offices, hospitals, schools, medical laboratories, restaurants, service industries, etc.

(i) Number of employees by sector;

(ii) Service area population (customers served); and

(iii) Delineation of seasonal water use for lawn irrigation, air conditioner operation, or recreational uses such as swimming pools, golf courses, etc.

(3) Industrial sector. This generally includes all manufacturing industries, where inputs are converted by means of some technological process into manufactured goods. Water is used for sanitary purposes and as inputs to production.

(i) Sanitary uses are determined by: number of employees and pricing policies.

(ii) Input to production water uses are determined by: amount of water needed to produce product output, pricing policies for water, and price of other related inputs to production process.

(4) Additional uses. This sector includes all water uses not included in the sectors above and can be grouped as public and unaccounted for water use.

(i) Unmetered water service to public buildings,

(ii) Water for fire protection, street cleaning, or mains flushing, and

(iii) Water loss to leakage and distribution, main breakage, etc.

(C) The service area population can be used to determine total water use for this sector, or stated public and unaccounted for use can be determined as a fixed fraction of the sum of use in other sectors.

(D) The purpose of considering as many explanatory variables as possible is the need to explain the variance which can be found among observations of water use in difference communities, and trends in water use which occur in any given community. While some differences will doubtless remain unexplained, for reasons noted, any determinant of water use which reduces the unexplained fraction of variance by some significant amount should not be ignored. Determining the true effectiveness of a water conservation measure or a water conservation plan requires the ability to separate forecast water use in each use category, and to take into consideration the relationship between such variables as price and water use.

(v) *Forecasting future demand.* (A) Once current levels of water use for a given community are estimated, the next step is to estimate future levels of water use. To do so requires two sets of assumptions: (*1*) those pertaining to changes expected in the levels of explanatory variables; and (*2*) those pertaining to changes expected in the relationships between specific explanatory variables and related water use.

(B) In the first case, the future levels of such determinants of water use as number of housing units, population per household, water price, etc., must be predicted prior to obtaining a forecast of water use. While these predictions can be viewed simply as the assumptions upon which the water use forecast depends, and may be augmented by providing several sets of alternative

future levels that result in several alternative water use forecasts, care must be taken that they comprise a consistent set of assumptions, amounting to a plausible future state of affairs.

(C) The second set of required assumptions refer to the coefficients, or the functional form, of the water use estimating model. One assumption of this type would hold that water use will continue to respond to its determinants in the future as it has in the past: i.e., coefficients and functional forms would be unchanged. Alternative assumptions which contemplate changed relationships must specify the nature and the amount of expected change.

(D)An exception to this procedure may be indicated in cases where water conservation measures have been implemented in the past, or are expected to be implemented in the future. Such measures may consist of changes in the technology of water use (water-saving plumbing fixtures) or of changes in habits of water use (voluntary conservation efforts, or water use regulations). Such changes will appear to alter the relationship between traditional determinants of residential water use (number of households, population per household, income, price, etc.) and resulting water use.

(2) *With project condition.* (i) The with project condition is defined as the most likely condition expected to exist in the future with a given water resource management alternative. The laws and policies used for the without project condition shoudl be used for the with project condition. The following discussion relates to the alternatives to be considered under the with project condition.

(A) The primary functin of alternative plans will be to alleviate unsatisfactory conditions or satisfy a need that exists or will exist in the future without the management programs or projects under consideration.

(B) Each Alternative plan considered should achieve equivalency with respect to providing the same ecomonic utility (value) to consumers of water. The goal of each alternative plan is to close the gap between demand and supply. Each plan should include measures to balance supply and demand over time.

(C) Alternative plans considered should consider all technically feasible means of meeting future water needs, whether by augmentation of present supplies; increasing the efficiency of use of present supplies; and/or reducing future demands.

(D) Alternative plans can differ in their timing as well as in their physical characteristics. The optimal timing of projects and of individual project features should be considered in development of alternative plans. Staged development would provide methods of meeting increasing demands over time. The cost of such staging should be discounted to current values.

(E) At least one alternative will be developed which makes maximum possible use of nonstructural measures. In the case of municipal and industrial water supply, nonstructural means may include water conservation practices. These practices include, but are not limited to: measures to increase the yield of watersheds or to alter precipitation patterns; schemes for interconnecting existing water supply systems for greater utilization of available supplies; changes in water use practices (resulting from regulations, restrictions, or appeals for voluntary changes); installation and use of watersaving plumbing fixtures; pricing policies designed to alter water use practices; programs intended to reduce losses from reservoirs, transmission facilities, and distribution systems; and contingent measures for reducing water use during critical periods, such as droughts. In every case the action has the effect of reducing the quantity of water that must be supplied at a given time, compared to what would be required had the conservation measure not been implemented.

(ii) Care shall be taken in generating each alternative to insure that the proposed structural and nonstructural measures are not already in the process of implementation, and thus a part of the "without project" condition.

(d) *Evaluation Procedure.* (1) *General.* The following steps are necessary to estimate NED benefits that would accrue to one or more alternative plans for providing M&I water supply management programs. The level of effort expended on each step depends upon the nature of the proposed development, the state-of-the-art for accurately refining the estimate, and the sensitivity of project formulation and justification to the estimate.

(i) *Identify the study area.* The study area is defined as the area within which significant project impacts will be incurred from the use of M&I water supplies. Included in the delineation of the study area should be a subdivision of those receiving direct benefits from the use of M&I water supply and those indirect areas where the provision of M&I water supply will generate external economies and/or diseconomies. Output: Delineation of the geographic area for defining current supplies, future demand, and potential alternative sources of supply.

(ii) *Delineate available municipal and industrial water supplies.* The planner will identify all current sources of supply available to the M&I water user. Included in this analysis will be all existing supply sources, all new supplies currently under construction and the continuance of all nonstructural (i.e. water conservation) measures already being implemented. Output: Delineation of existing supplies and management programs.

(iii) *Estimate future demand for M&I water supply.* (A) The planner will assemble all data necessary to project the future demand for M&I water supplies under the without project condition.

The projections should be based on disaggregated projections by sector as described under the without project planning setting. Thes data may be obtained from local or State sources and/or be generated by the Federal agency. The planner will determine the validity of all data obtained from local, State, and private organizations.

(B) Water demand forecasts will be developed by relevant time period for each use sector. Included in these projections should be the impact of relevant water conservation measures which could reasonably be expected to be installed without the project. Water conservation measures may include, but are not limited to, long-term measures, loss reduction programs, and contingent, or drought managment measures. A measure-by-measure analysis of the reasonableness of the proposed inclusions in the without project condition should be provided.

Consideration of disaggregated determinants of water use will produce forecasts of future water use which should reflect changes in the character or economic development of the area served, reflect the effect of changes in price on the use of water, reflect the impact of conservation measures, and provide useful estimates of water use during specified peak periods. OUTPUT: Future estimates of municipal and industrial water supply demand for appropriate forecast dates.

(iv) *Compare available water supply with projected future demand.* The planner will compare the projected demand defined in Step (iii) with the available supplies delineated in Step (ii) to determine if any unmet needs exist in the study area. Comparison of future water requirements with available supplies indicates the size of the gap that may exist between supply and demand. If a gap exists between future

demand for water and existing supplies, then alternative plans will be developed to reduce and/or close the gap. (In some cases, management, efficiency, and conservation measures might be worthwhile as in NED basis even in the absence of supply and demand differences.) OUTPUT: Identification of future M&I water supply demands which could be met through the development of alternative supply plans.

(v) *Develop alternative plans to balance supply and demand.* (A) Alternative plans will be developed to balance supply and demand and close the gap discovered during the comparison of existing supply and future demand in Step (iv). Guidance provided under "Planning Setting" for with project analysis will be employed in developing alternative plans.

(B) The range of technically feasible supply augmentation schemes available to the affected study area, either individually or collectively, should be considered. These schemes should be identified through analysis of the total water resource of the region, allowing for present and expected competing uses.

(C) Consideration will be given to balancing supply and demand through water conservation measures, not already included in the demand forecasts, which would be taken to limit water use. These actions may include various water conservation measures, or they may include constraints on the growth and economic development of the community. Consideration should also be given to balancing the losses of occasional shortfalls against the savings that would accrue from the lower investments which permit occasional shortfalls. (In calculating the costs of shortfalls, the costs of public health and safety measures that might be required should be included.)

(D) In developing alternative plans, the following general guidance is given. Alternative plans may be formulated to:

(*1*) Include drought contingency measures,

(*2*) Reduce demand through the use of conservation measures (i.e., pricing policies),

(*3*) Improve management of existing supplies to reduce losses and wasteful uses, and

(*4*) Consider development of new supplies based on economic efficiency.

Output: The range of reasonably feasible Federal M&I water supply plans that will include the NED maximizing plan and other plans that might be displayed according to multiple-objective principles.

(vi) *Alternatives for calculating benefits.* (A) A suitable range of reasonably likely alternative plans should be investigated, using the guidance given with respect to the Federal plans in the level of detail that is appropriate. The various likely plans that are alternatives to the Federal plans must be viable in terms of engineering, environmental quality, and other national policy considerations. Each alternative need not in itself deliver M&I water supplies similar in kind to the proposed Federal M&I water project, but the total plan with the alternative must close the gap between supply and demand similar in kind to the supply and demand relationship with the Federal M&I water supply project (i.e., the consideration of staged projects as alternative costs for a nonstaged Federal project).

(B) "Likely" plans shall also be those plans which would reasonably be attempted by the communities and/or industries affected in the absence of any other alternative. Where political or institutional obstacles to implementation are noted, the plan may or may not be considered likely. If the barriers are substantially within the power of the affected water users to correct, the plan could be considered likely. Output: Indentification of those alternative plans likely to take place in the absence of the Federal project.

(vii) *Determine the current cost of the likely alternatives.* (A) Those alternative plans which pass the screening process and become "likely" plans will be costed. Costs will be developed in a consistent manner for each alternative. The period of analysis for determining average annual alternative costs will be based upon the lesser of the service (depreciable) life of the facility or 50 years.

(B) The calculation of alternative costs to be used as a measure of NED benefits shall be on the following basis: (*1*) All interest and amortization costs charged to the alternative shall be calculated on the basis of the Federal discount rate; (*2*) no costs for taxes or insurance shall be charged to the alternative; and (*3*) all other assumptions and procedures used in calculating the costs of the alternatives including external diseconomies shall be parallel to those employed in calculating the costs for the proposed Federal project.

(viii) *Rank and display the "likely" alternative plans based or leastcost analysis.* The planner will rank the "likely" alternatives determined in Step (vi) according to the highest alternative first, the second highest next, and so on until all likely alternatives are listed. The purpose of this step is to assure that the selection of the most likely alternative is based on an incremental analysis of the various likely alternatives.

(ix) *Identify the most likely alternative.* (A) The planner will select from the listing in Step (viii) the one alternative most likely to be implemented in the absence of the Federal project. In considering which plan is most likely, the planner should consider the likely alternatives based on the cheapest first, then the next, until the most likely alternative is arrived at. The alternative selected must be a realistic alternative that could and would likely be undertaken in the absence of the Federal project. As the planner moves from the cheapest alternative to more expensive alternatives justification for not selecting the cheaper plan will be presented. Output: The selection of the most likely alternative to represent M&I water supply benefits.

(B) Smaller sponsoring communities may not be able to afford development of the alternative water supply system. In those cases, the updated cost of water supply systems in municipalities of similar size in the region may be analyzed and the estimate of alternative cost or willingness to pay would be based on the average of such costs.

(x) *Compute M&I water supply annual benefits.* Average annual benefits are computed based on the costs of the most likely alternative.

(2) *Problems in application.* (i) Two major problems will exist in applying this procedure. The first problem is the identification of the value of conservation and nonstructural measures. The WRC will provide guidance when available for estimating nonstructural and conservation measures and management strategies. These guidelines will give the planner examples of conservation strategies and the methods for pricing.

(ii) The other major problem will arise over the disaggregation of water use by sectors. Not all areas of the United States have data available for all determinants in all sectors. Agency planners may have to develop surrogate values for some determinants in some areas. In addition, the methodology used to forecast future demand by sectors will have to be reviewed for reasonableness.

(3) *Data sources.* (i) Information regarding possible supply sources, including those which may have been considered in the past, can be obtained from water utilities, State and local

planning agencies, and State water resources agencies. Cost and capability data for various schemes can be obtained from these sources, or obtained prior to the initiation of the benefit calculation. Each version, or configuration, of the Federal project must be fully costed.

(ii) Data on demand projections can be based on primary data or secondary data available from local, State, and Federal agencies. It is critical that as much disaggregated data as possible be obtained for the individual sectors. National coefficients of water use may be employed where needed to generate sectoral use by industry, except for particularly large industrial users.

(4) *Risk and uncertainty.* (i) The major source of uncertainty in the estimation of NED benefits lies in the water use forecasts upon which all calculations are based. Within limits, the benefit will tend to be larger or smaller as the forecast water use is "too high" or "too low." Sensitivity to forecast accuracy can be investigated by employing different sets of assumptions regarding the determinants of water use, and developing corresponding benefit estimates.

(ii) Beyond this fundamental source of uncertainty, many other data and assumptions employed in the analysis can contribute to error in the final estimate. Incorrect or inappropriate assumptions regarding the availability, capability, and cost of locally available alternative supply schemes can produce errors in either direction. Failure to identify feasible alternatives which are lower in cost than those considered, for example, can bias the benefit estimate upwards. Overestimates of the cost of alternatives that are considered would have the same effect. These relationships suggest that substantial effort should be devoted to the development of the least costly, most likely alternative plan, as its cost is the single most important component of the final benefit estimate.

(e) *Report and display procedures.* (1) It is important that sufficient information be provided in the project report to enable an effective and thorough review of the benefit estimate. Where standard procedures have been used throughout, the major reporting task is the preparation of various displays which show the data, information, and assumptions used, as well as present various intermediate and final results. Deviations from standard procedures, or substitute procedures applied under special circumstances, require: (i) A clear statement as to the nature of the circumstances (availability of different types of data, special characteristics of local water uses, etc.) that require the alternate procedure, and (ii) an adequate description of the procedures that were employed in place of the standard procedures, including, where necessary, justification of their appropriateness.

(2) Displays required by standard procedures include the following:

(i) *Summary of alternative local supply systems.* A list of all local supply systems considered showing location, capability, and other important physical characteristics for each. Any systems eliminated on feasibility grounds should be so indicated. Preliminary cost and useful life estimates should be shown for all systems not eliminated. The plan chosen as the least costly, most likely alternative should be indicated and the reasons for selection documented in the text.

(ii) *Basis of with-without analysis.* The principal data and assumptions that form the basis of the with-without identification of the benefit should be displayed. Information provided here includes the comparison of the alternative plans to the without project demand forecasts.

(iii) *Calculation of NED benefits.* The cost data used to value the least costly, most likely alternative shall be displayed to include construction costs, interest during construction, and all operation, maintenance, and replacement (OM&R) costs. The NED benefits should be displayed in the NED account as a line item entry labeled M&I water supply.

§ 704.122 Agricultural water supply (irrigation).

(a) *Introduction.* This section provides procedural guidance for the evaluation of NED benefits to irrigation features of Federal water project plans. External economies and employment benefits are covered in sections 704.131 and 709.132 and have therefore been omitted from this discussion. The procedures presented apply equally to both structural and nonstructural plan elements.

(b) *Conceptual basis.* (1) The NED benefit is the increase in the value of output of agricultural goods and services to the Nation under future conditions with the project versus without. Such benefits are measured as increased net returns and accrue through the employment of additional resources in the production process and more efficient resource use.

(2) Care must be exercised in the evaluation so as to identify only those benefits which are pertinent at a national level. This requires careful handling of each of the key evaluation components—cropping patterns, crop yields, crop prices, and production costs. A discussion of each follows:

(i) *Cropping patterns.* (A) Where project measures are expected to change the composite land use in a project area, the increased NED value due to project measures will be measured in terms of the net returns of crops that potentially can be increased to satisfy national and international markets. Such crops shall presently be limited to the following: cotton, wheat, corn, soybeans, milo, hay, pasture, barley, and oats. Net returns for other crops are not to be included in the NED account since these crops usually involve relatively small acreages, produce high net returns and could be expanded on existing croplands within the region without the project.

(B) An additional NED benefit occurs where it can be shown that project lands both new and previously irrigated, drained, or protected from floods offer an efficiency advantage (i.e., production and transportation costs per unit of output are lower) over any other area in the production region for the production of crops other than those used for NED benefits. In such cases, the net efficiency gain may be included as an NED benefit for the additional output of these crops. Net efficiency gain may be measured as the difference in the costs per unit of output in the project area compared to the costs per unit of output of the marginal producers in the farm production region. This benefit may be claimed only when the project lands have an efficiency advantage over any other lands in the production region, including lands in production of the above named crops.

(ii) *Crop yield and prices.* (A) The sensitivity of crop prices to changes in market output is well documented. Where projected supply is expected to grow more slowly than projected demand, prices rise. This increases net returns and encourages additional investment in agricultural production (i.e., more irrigation). Where projected supply rises more rapidly than projected demand, however, prices drop. Investment in additional agricultural production is discouraged, and less irrigation development takes place.

(B) Proper NED evaluation requires that the future relationship of supply and demand for agricultural crops be structured into the analysis. A series of projected prices by time periods will therefore be used in evaluating NED irrigation benefits. These prices will be developed by States or regions and will

reflect market clearing conditions in the absence of those Federal programs which have pricing impacts. Such prices allow for a level of returns to each of the factors of production equal to their average costs in the future.

(iii) *Production costs.* Historically, the costs of operator and family labor, as well as management, have ofter been excluded from crop budgets. This assumes no long-run opportunity costs for these resources. The history of American agriculture clearly shows that this is not the case. Millions of workers have left the farm for employment elsewhere. Net outmigration is now near a standstill. To assume a zero opportunity cost for these resources is unrealistic. Appropriate charges should therefore be included in NED benefit calculations.

(c) *Planning setting.* (1) The evaluation of NED irrigation benefits is made through a comparison of net income anticipated in the future with the project versus without. For analysis, the producer is considered to be the Nation as a whole. Relevant benefits therefore become the increased value of future agricultural output from the total of all lands.

(2) The without project condition is defined as the condition expected to exist in the future in the absence of a project or any change in law or public policy; whereas the with project is defined as the condition expected to exist in the future with a given project alternative. Since a number of alternatives are generally formulated in planning a particular project, there are a corresponding number of with project conditions.

(3) Relevant considerations for structuring the evaluation of each future condition are discussed below:

(i) *Costs (current).* (A) Only the costs which are expected to vary between the without and with project conditions need be analyzed. They may include the cost of equipment ownership, equipment operating, production materials, capital improvements to land, labor and management, system OM&R, and interest.

(B) Of these costs, purchased inputs should be valued at current market price, family and operator labor at prevailing farm labor rates, management at 10 percent of variable production costs (excludes the cost of land and added capital improvements), and interest at the project discount rate.

(ii) *Costs (future—with and without).* Project current costs by relevant time periods using the ratio of the current production cost index to the respective future indices. (WRC will supply indices.)

(iii) *Crop yields (current).* Use yields currently being realized on comparable areas within the region under average management.

(iv) *Crop yields (future—with and without).* Project current yields using historically derived rates. (WRC will supply rates for individual crops by States and/or regions.)

(v) *Crop prices (future—with and without).* Use projections of prices received for all crop outputs anticipated to be marketed direct. Use projections of prices paid plus an allowance for delivery costs to the farm for crop outputs anticipated to be marketed through livestock. (WRC will provide a series of price projections for target years.)

(vi) *Land use (present).* Use current land use and cropping patterns within the project area to be irrigated.

(vii) *Land use (future—with and without).* Project present land use and cropping patterns based on an evaluation of the land capability, expected demands for agricultural commodities, availability of markets, recent land use trends, and expectations of farmers and others.

(d) *Evaluation procedure.* (1) *General.* National economic development benefits from irrigation elements of Federal water project plans are computed in two phases. The first involves the computation of increased net returns which would result on project lands if no increase in the acreage of high net return crops occurred with versus without the project. And the second involves the computation of efficiency advantages which the project offers for those high net return crops projected to increase in acreage with the project. The total NED benefit is the sum of the benefits identified in each phase.

(i) *Phase 1.* The discussion below identifies key steps pertinent to the Phase 1 evaluation. The level of detail required for this, as well as the Phase 2 evaluation, will depend upon the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(A) *Identify current land use, cropping patterns, and crop yields.* The number of acres by major land use (i.e., pastureland, hayland, and woodland) are to be identified for current conditions. Cropland use should be further defined to show the number of acres of each crop grown. This information should generally be developed by groupings of similar soils within the area to be irrigated. Yields are then determined for crops within each soil grouping. A careful reconnaissance of the problem area, together with interviews with farmers and consultation with physical scientists, is critical to establish the needed data.

(B) *Establish net income increases by time periods. (1)* Net income increases attributable to the project are determined by subtracting the change in variable costs with versus without the project from the change in gross income (change in agricultural output multiplied by price per unit of output). Such values are determined on a per acre basis for appropriate crops for each time period relevant to the evaluation. The acre values are then expanded to the project as a whole utilizing projected acreages with and without project.

(2) Projected maintenance of existing on-farm drainage and irrigation systems and installation of new systems without and with the project should be incorporated into the calculations, as should any substantiated physical constraints to yields other than the lack of irrigation water. Where increased acreages of high net return crops are anticipated with project, the planner will perform the analysis using low net return crop surrogates. Selection of these surrogates will be based on the planner's best estimate of which low net return crop would most likely be grown.

(C) *Compute benefits.* Annual increases in net returns are determined by discounting the flow of increased net returns identified under (b) above to a present value and then amortizing the same over the project life at the project discount rate.

(ii) *Phase 2.* NED benefits from increased acreages of high net return crops with project are measured by the difference in net income from such crops on project lands in comparison to the next best available site. A true analysis of this benefit would require a model of interregional competition between producing areas. This is not deemed feasible. The following shorcut procedure should therefore be used.

(A) *Determine project net returns for the high net return crop.* Calculate the net returns to land and water for a representative acre of the high net return crop for each time period relevant to the evaluation. Annualize the resulting income flow by discounting to a present value and amortizing over the project life at the project discount rate.

(B) *Locate alternative production site.* Identify the nearest major market for the high net return crop in question, as well as the area served by that market. The

market selected should be large enough to have production cost and yeild data readily available.

(C) *Determine the net returns for the high net return crop on the alternative site.* Use the same approach as specified under (a) above. Average production costs and crop yields realized in the service area of the market will provide the frameowrk for the analysis.

(D) *Compute benefits.* Subtract the per acre net for the region from the project net. If the difference is a positive number, multiply the per acre efficiency gain by the projected increase in acreage with versus without the project.

(2) *Problems in application.* (i) One potential pitfall is the imputation of returns to factors of production other than irrigation water into irrigation NED benefits. This could occur, for example, if a project increases the amount of family labor used in crop production activities on the farm and the value of such labor is disregarded in the budget preparation process. Net income without and with the project becomes correspondingly higher as do benefits to irrigation.

(ii) The reverse can also happen in that legitimate NED benefits to irrigation may be imputed as economic rents to other factors in the production process. This problem is most apt to appear in the case of projects involving the provision of supplemental irrigation water supplies. Cases in point might involve (1) the use of two distinctly different production functions for identifying the level of fertilizer usage under the without and with project conditions for a given crop or (2) the use of two separate schedules for determining machine and power costs for the two conditions, even though the types of crops grown and acreages do not change significantly. Problems of this type can be avoided by using a single production function for fertilizer and a single equipment schedule for production cost determinations.

(3) *Data sources.* Interviews with farmers are good sources of information for production costs, yield responses to varying levels of irrigation, and expected cropping patterns without and with the project. (Only OMB approved forms should be used.) Specialists, such as agronomists and soil scientists, can be used as information sources on soil productivity and yield responses to irrigation. Many universities and a number of Federal agencies have developed typical enterprise budgets that can be modified to reflect conditions in the project area.

(e) *Report and display procedures.* Benefits should be displayed in the NED account as a line item entry labeled irrigation.

§ 704.123 Agricultural flood damage (flood control).

(a) *Introduction.* This section provides procedural guidance for the evaluation of agricultural NED benefits to flood plain management elements of Federal water project plans. External economies and employment benefits are covered in sections 704.131 and 704.132 and have therefore been omitted from this discussion. The procedures presented apply equally to both structural and nonstructural plan elements.

(b) *Conceptual basis.* (1) *General.* Benefits from flood plain management plans accrue primarily through the reduction of actual or potential damages associated with various agricultural land uses. The standard for evaluating benefits is the willingness of users to pay for the plan or increments thereof. In evaluating NED benefits from such plans, the term user must be broadly construed. This is because a key part of the evaluation deals with existing flood plain uses.

(2) *Benefit categories.* While there is only one benefit standard, there are three benefit categories. They are as follows:

(i) *Flood damage reduction benefit.* Where flood plain land use and cropping patterns are expected to remain the same with or without project, the benefit is the increase in net income resulting from the reduction of flood damages. Where such land use and cropping patterns are expected to undergo a switch to lower net income producing uses in the future without project, the benefit is the net income maintained by avoiding or delaying the switch. Where implementation of a nonstructural plan removes a given land use from the flood plain, the benefit is the cost saving to other economic sectors.

(ii) *Intensification benefit.* Where a flood hazard reduction plan induces an intensification of production within a particular land use or crop group, the benefit is the increased net income to the particular land use or crop group with versus without the project.

(iii) *Changed land use (location benefit).* Where a project induces a change from one land use or crop group to a higher net income producing use or crop group, the benefit is the increase in net income with versus without the project. Such benefits are limited by the increased net returns which would be realized on low net return crops (i.e., pasture, hay, feed grains), plus any efficiency advantage which project lands offer over other areas for the production of those high net return crops projected to be grown with project.

(3) *Evaluation framework.* Care must be exercised in the evaluation of agricultural NED benefits from flood hazard reduction plans so as to identify only those benefits which are pertinent at a national level. This requires judicious handling of the key evaluation components (i.e., cropping patterns, crop yields, crop prices and production costs). A discussion of each follows:

(i) *Cropping patterns.* (A) Where project measures are expected to change the composite land use in a project area, the increased NED value due to project measures will be measured in terms of the net returns of crops that potentially can be increased to satisfy national and international markets. Such crops shall presently be limited to the following: cotton, wheat, corn, soybeans, milo, hay, pasture, barley, and oats. Net returns for other crops are not to be included in the NED account since these crops usually involve relatively small acreages, produce high net returns and could be expanded on existing croplands within the region without the project.

(B) An additional NED benefit occurs where it can be shown that project lands both new and previously irrigated, drained, or protected from floods offer an efficiency advantage (i.e., production and transportation costs per unit of output are lower) over any other area in the production region for the production of crops other than those used for NED benefits. In such cases, the net efficiency gain may be included as an NED benefit for the additional output of these crops. Net efficiency gain may be measured as the difference in the costs per unit of output in the project area compared to the costs per unit of output of the marginal producers in the farm production region. This benefit may be claimed only when the project lands have an efficiency advantage over any other lands in the production region, including lands in production of the above named crops.

(ii) *Crop yields and prices.* (A) The sensitivity of crop prices to changes in market output is well documented. Where projected supply is expected to grow more slowly than projected demand, prices rise. This increases net returns and encourages additional investment in agricultural production (i.e., more flood control). Where projected supply rises more rapidly than projected demand, however, prices drop. Investment in additional agricultural production is discouraged, and less flood hazard reduction work would be expected to take place.

(B) Proper NED evaluation requires that the future relationship of supply and demand for agricultural crops be structured into the analysis. A series of projected prices by time periods will therefore be used in evaluating agricultural flood benefits. These prices will be developed by States or regions and will reflect market clearing conditions in the absence of those Federal programs which have pricing impacts. Such prices allow for a level of returns to each of the factors of production equal to their average costs in the future.

(iii) *Production costs.* Historically, the costs of operator and family labor, as well as management, have often been excluded from crop budgets. This assumes no long-run opportunity costs for these resources. The history of American agriculture clearly shows that this so not the case. Millions of workers have left the farm for employment elsewhere. Net outmigration is now near a standstill. To assume a zero opportunity cost for these resources is unrealistic. Appropriate charges should therefore be included in NED benefit calculations.

(c) *Planning setting.* (1) The evaluation of NED agricultural flood benefits is made through a comparison of net income anticipated in the future with the project versus without. For analysis, the producer is considered to be the Nation as a whole. Relevant benefits therefore become the increased value of future agricultural output from the total of all lands.

(2) The without project condition is defined as the condition expected to exist in the future in the absence of a project or any change in law or public policy; whereas the with project is defined as the condition expected to exist in the future with a given project alternative. Since a number of alternatives are generally formulated in planning a particular project, there are a corresponding number of with project conditions.

(3) Relevant considerations for structuring the evaluation of each future condition are discussed below:

(i) *Costs (current).* (A) Only the costs which are expected to vary between the without and with project conditions need be analyzed. They may include the cost of equipment ownership, equipment operation, production materials, capital improvements to land, labor and management, system OM&R, and interest.

(B) Of these costs, purchased inputs should be valued at current market price, family and operator labor at prevailing farm labor rates, management at 10 percent of variable production costs (excludes the cost of land and added capital improvements), and interest at the project discount rate.

(ii) *Costs (future—with and without).* Project current costs by relevant time periods using the ratio of the current production cost index to the respective future indices. (WRC will supply indices.)

(iii) *Crop yields (current).* Use yields currently being realized on comparable areas within the region under average management.

(iv) *Crop yields (future—with and without).* Project current yields using historically derived rates. (WRC will supply rates for individual crops by States and/or regions.)

(v) *Crop prices (future—with and without).* Use projections of prices received for all crop outputs anticipated to be marketed direct. Use projections of prices paid plus an allowance for delivery costs to the farm for crop outputs anticipated to be marketed through livestock. (WRC will provide a series of price projections for target years.)

(vi) *Land use (present).* Use current land use and cropping patterns within the flood plain area.

(vii) *Land use (future—with and without).* Project present land use and cropping patterns based on an evaluation of the land capability, expected demands for agricultural commodities, availability of markets, recent land use trends, and expectations of farmers and others.

(d) *Evaluation procedures.* (1) *General.* (i) This section sets forth the procedures for the evaluation of six categories of NED benefits. These include: (A) inundation reduction benefits (agricultural crops), (B) inundation reduction benefits (other agricultural properties), (C) itensification benefits, (D) changed land use benefits, (E) erosion reduction benefits, and (F) sediment reduction benefits.

(ii) The level of detail required for each benefit evaluation will depend on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(A) *Inundation reduction benefits (agricultural crops). (1)* Benefits from reducidng inundation damages to agricultural crops may arise through the alteration of flood flows and/or the shift in use of flood plain lands to uses less susceptible to flood damages. Those benefits associated with flood flow alteration are measured by increases in net income, whereas those benefits from shifts to uses less susceptible to flood damages arise through savings in costs to other economic sectors for example, reduced disaster payments. The procedure for measuring the net income changes relates economic losses for each crop to season of flood occurrence, frequency of flooding, and flood characteristics (i.e., depth, velocity, area, and/or duration).

(2) The discussion which follows identifies key steps required for the evaluation. The first five steps deal with the development of flood damage factors by land use or crop. Remaining steps illustrate how such factors are integrated with future land use and cropping pattern data, projected crop yields, and hydrologic flood data to determine NED benefits.

(i) Identify current land use and cropping patterns. The acres of each land use (i.e., pastureland, hayland, woodland, cropland, etc.) in the flood plain are to be identified. Cropland use should be further defined to indicate the acres of each crop currently grown. This information is generally developed for flood plain reaches. Such reaches represent segments of the flood plain possessing significantly different land use or cropping patterns and/or hydrologic characteristics.

(ii) Establish current flood-free yields. Yields that could be expected if floods did not occur are to be developed for the current condition. Interview with flood plain farmers, farmers with flood-free yields, agronomists, soil scientists, and others will provide needed information. Such yields should reflect other factors that limit production in the area such as hail, drought, soil fertility, and production practices.

(iii) Calculate damageable value. Multiply the current price for each crop by the flood-free yield for that crop. The resulting damageable values reflect the maximum loss which would be incurred in the event of complete destruction by a single flood.

(iv) Develop monthly flood damage factors. Gather historical flood damage information through interviews of flood plain farmers. Data needs include acres flooded, flood depth or duration, yield reductions, added expenses due to the flood, production costs saved on the flooded crop, type of substitute crops, and yelds of such crops. Monthly crop damage can then be computed for a given flood depth or duration based on the following: (Yield Reduction of Flooded Crop x Price)+(Added Expenses on Flooded Crop)—(Production Costs Saved on Flooded Crop)—(Substitute Crop Yield x Price).

Dividing the monthly crop damage by the damageable value for that crop results in a damage factor value for a given depth or duration. Such factors are expressed as percentages.

Generally, insufficient data are available for a given project with which to develop damage factors for all months, crops, depths, or durations. In such cases, data from other projects in the region or proxy values generated by using crop budgeting techniques can be used. Because of the recurring problem of obtaining complete damage data for a given project, information from similar projects in an area should be aggregated. This will enable greater confidence to be placed in the damage factors used for project evaluation. Standardized interview techniques and questions would be needed, however, to minimize sampling error.

(v) Develop weighted, average annual flood damage factors. Multiply each monthly flood damage factor for a given crop and a given depth or duration by the historical probability of floods occurring during that particular month. The sum of products from these calculations represents a weighted, average annual flood damage factor.

(vi) Project future land use, cropping patterns, and crop yields. Projections of future land use, cropping patterns, and crop yields are to be developed for each flood plain reach identified under step (i) above. Guidance with respect to making these projections was previously discussed under "Planning Setting."

(vii) Develop composite acre, flood damages. A composite acre is a reflection of the relative mix (expressed as percentages) of various land uses and crops within a given flood plain reach. Several different composite acres should be developed for a given reach, if a significantly different mix of crops would be flooded within that reach by floods of various sizes. Composite acre flood damages are computed for a given flood depth or duration by summing for each land use or crop within the composite acre the products resulting from the following calculation: (Yield × Price × Land Use Percentage × Damage Factor Percentage).

(viii) Determine average annual damages. Damage factors can now be intergrated with hydrologic data (i.e., flood frequency, acres flooded, depth, or duration) to determine average annual damages. This process involves first a summing of the products from the following calculation for the various flood plain reaches and flood frequencies and then a division by the number of years in the evaluation period. (Acres × Composite Acre Flood Damage For a Given Depth or Duration × Probability of Flood Occurrence × Number of Flood of That Frequency Expected to Occur During the Evaluation Period)+(Same For Other Relevant Flood Depths or Durations).

The procedure described above is to be used for determining average annual flood damages for current and future conditions without and with the project. Average annual damages obtained are to be adjusted to avoid double counting in the event of recurrent flooding in a given year. The empirical formula which follows will provide the basis for this adjustment: $Y=1/(1.0005+0.1193\ X)$. Here (X) is the ratio of average annual acres flooded to total flood plain acres, and (Y) is the adjustment factor which will be multiplied by average annual damage estimates.

Estimates of current average annual damages are to be based on present condition hydrology, current land use and cropping patterns, current costs and commodity prices, and current yields being realized on project flood plain areas under average management. The damage estimate obtained is useful for display purposes in project impact documents and also for making a test of reasonableness with respect to the damage estimate.

The test of reasonableness involves a comparison of net returns to a composite flood plain acre based on the current situation, and a theoretical situation where the flood plain is assumed to be idle. If this test indicates that economic losses would be greater in the current situation then the assumed alternative, one has reason to suspect a significant error in the evaluation. Damage factor calculations and hydrologic data should consequently be carefully reviewed.

Estimates of future average annual damages are to be based on projections by relevant time periods of current land use and cropping patterns, yields, production costs, commodity prices, and hydrologic conditions in the future without and with the project.

(xi) Determine average annual benefits. Subtract average annual damages with the project from those without to determine average annual benefits.

(B) *Inundation reduction benefits (other agricultural properties).* The term "other agricultural properties" includes physical flood plain improvements associated with various farm enterprises. Benefits to such properties are measured through reductions in inundation damages in the future with versus without the project. Relevant damages to be considered include damages to the improvements, as well as those to associated agricultural enterprises within the project (i.e., crop damage due to interruption of irrigation water deliveries). The discussion which follows identifies key steps needed for evaluation. Benefits accrue through the alteration of damaging flood flows or by altering the susceptibility of the property to damage (i.e., relocation, flood proofing, etc.).

(1) Inventory damageable flood plain improvements. Identify the location, type, number, and value of other agricultural properties within the flood plain that are subject to flood damage. This information is most easily obtained through interview of flood plain farmers and field reconnaissance. Data should be gathered by flood plain reaches.

(2) Determine damages to flood plain improvements. Gather interview data on historical damages to other agricultural properties by flood plain reach and flood depth. Historical damages, so obtained are to be calculated in present dollars and projected by relevant time frames throughout the evaluation period using the ratio of the current production cost index to future index values (WRC will supply indices). Depth-damage information resulting can then be expanded to the reach as a whole using the ratio of current damageable value of "other agricultural" property covered by interview to that of all such property subject to damage.

(3) Determine average annual damages to flood plain improvements. The depth-damage relationships for each reach can then be integrated with hydrologic data to develop average annual damages without and with the project. This process is the same as that previously discussed for agricultural crops with the exception that seasonal occurrence of flooding is generally not an important consideration, nor is the adjustment of damages for recurrent flooding in a given year.

(4) Determine average annual damage to associated agricultural enterprises. *(i)* Damages of this type are evaluated as reduced net income under without and with project conditions. Interruption of irrigation deliveries is the most common example and is described as follows.

(ii) The evaluation is initiated by developing estimates of the daily damage that would result from irrigation interruptions at different times (i.e., months) during the growing season. Such information should be developed on a composite acre basis for future conditions without and with the project. This can be done through the use of farm enterprise budgets. Farmer

interviews are a primary source of yield impact data for use in budget construction.

(iii) Weighted average damage values are then computed by multiplying daily damages for each composite acre in each time period by the respective probability of storm occurrence for each period. The resulting values reflect average damages that would occur per day of interrupted delivery, regardless of when the interruption occurs.

(iv) Damage values per storm event are then determined for the without and with project condition. This is done by multiplying the following: acres served by the delivery system below the damage point; typical period (days) of interruption per damage occurrence based on historical reports; and weighted average damage values for the without and with condition.

(v) Storm damage data are then integrated with hydrologic flood frequency data to determine average annual damages without and with the project.

(5) Calculate average annual benefits. Subtract average annual damages with the project determined under *(3)* and *(4)* above from those without the project to determine average annual benefits.

(C) *Intensification benefits.* Intensification benefits are computed by subtracting net income without the project on affected lands from net income with the project. An example of the more intensive use type is where reduced flooding allows farmers to perform operations in a more timely manner or to profitably invest additional labor and capital in a particular crop enterprise. The following discussion identifies key steps necessary for the evaluation. *(1) Identify flood plain areas on which intensification will occur.* Determine those areas on which more intensive land use benefits are anticipated for each flood plain reach. Factors to consider in making this determination include *(i)* the productivity of the soil; *(ii)* the relationship of flood plain lands to other lands in affected farming units; *(iii)* the ease with which farmers in affected units can intensify production; *(iv)* the degree of flood protection provided by the project; *(v)* the profitability of intensification to affected farm units; *(vi)* general land use trends in the area; and *(vii)* expressed intentions of flood plain farmers.

(2) Develop crop budgets. Budgets for future without and with project conditions are to be developed by time frames for flood plain areas on which intensification is anticipated. Guidance for structuring the budgets has been previously discussed under "Planning Setting."

(3) Apply test of reasonableness. A test of reasonableness is to be applied, to insure that the net income increases due to projected intensification are creditable to the project. The test is made by developing a budget for the without project condition in which the projected intensification with project is applied. If a budget reflecting this situation shows a higher net income than the without project budget above, it may be assumed that other constraints exist which limit the intensity of flood plain farming operations. Under these conditions, the basis for the projections should be carefully reexamined. If no adjustments appear warranted, the projections may be retained. Intensification benefits would be limited, however, to the net income increase between the without condition on which intensification was projected and the with project condition.

(4) Determine average annual benefits. Subtract the net income without project from that with project on affected lands to determine the annual net income increase. Discount these annual increases in income for any anticipated lags in accrual over the life of the project using the project discount rate.

(D) *Changed land use benefits.* National economic development benefits from changed land use are computed in two phases. The first involves the computation of increased net returns which would result on project lands if no increase in the acreage of high net return crops occurred with versus without the project. And the second involves the computation of efficiency advantages which the project offers for those high net return crops projected to increase in acreage with the project. The total NED benefit is the sum of the benefits identified in each phase.

(1) Phase 1. The discussion below identifies key steps pertinent to the Phase 1 evaluation.

(i) Identify current land use, cropping patterns, and crop yields. The number of acres by major land use (i.e., pastureland, hayland, and woodland) are to be identified for current conditions. Cropland use should be further defined to show the number of acres of each crop grown. This information should generally be developed by groupings of similar soils within the area to be irrigated. Yields are then determined for crops within each soil grouping. A careful reconnaissance of the problem area, together with interviews with farmers and consultation with physical scientists, is critical to establish the needed data.

(ii) Establish net income increases by time periods. Net income increases attributable to the project are determined by subtracting the change in variable costs with versus without the project from the change in gross income (change in agricultural output multiplied by price per unit of output). Such values are determined on a per acre basis for appropriate crops for each time period relevant to the evaluation. The acre values are then expanded to the project as a whole utilizing projected acreages with and without project.

Projected maintenance of existing on-farm drainage and irrigation systems and installation of new systems without and with the project should be incorporated into the calculations, as should any substantiated physical constraints to yields other than flooding. Where increased acreages of high net return crops are anticipated with project, the planner will perform the analysis using low net return crop surrogates. Selection of these surrogates will be based on the planner's best estimate of which low net return crop would most likely be grown.

(iii) Compute benefits. Annual increases in net returns are determined by discounting the flow of increased net returns identified under (ii) above to a present value and then amortizing the same over the project life at the project discount rate.

(2) Phase 2. NED benefits from increased acreages of high net return crops with project are measured by the difference in net income from such crops on project lands in comparison to the next best available site. A true analysis of this benefit would require a model of interregional competition between producing areas. This is not deemed feasible. The following shortcut procedure should therefore be used.

(i) Determine project net returns for the high net return crop. Calculate the net returns to land and water for a representative acre of the high net return crop for each time period relevant to the evaluation. Annualize the resulting income flow by discounting to a present value and amortizing over the project life at the project discount rate.

(ii) Locate alternative production site. Identify the nearest major market for the high net return crop in question, as well as the area served by that market. The market selected should be large enough to have production cost and yield data readily available.

(iii) Determine the net returns for the high net return crop on the alternative

site. Use the same approach as specified under (i) above. Average production costs and crop yields realized in the service area of the market will provide the framework for the analysis.

(iv) Compute benefits. Subtract the per acre net for the region from the project net. If the difference is a positive number, multiply the per acre efficiency gain by the projected increase in acreage with versus without the project.

(E) *Erosion reduction benefits. (1)* Erosion may be classified as gully, streambank, flood plain scour, and sheet erosion. Benefits are measured as net income maintenance or recovery on agricultural lands and damage reduction to other affected property.

(2) The following discussion identifies key steps in the evaluation of each type of benefit. The level of detail required for the evaluation will depend on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(*i*) *Identify areas with erosion problems.* Erosion problems will be identified and classified with respect to type of problem; areal extent; projected rate of change of area affected; impacts on soil productivity—present and future; potential for recovery; and projected rate of recovery. Such information will be developed for relevant time periods as needed to reflect the dynamic nature of the problems.

(*ii*) *Develop net income data for affected agricultural lands.* Determine net income on agricultural lands without and with the project by relevant time periods. Such information will be developed through crop budgets on a composite acre basis. Budget preparation and development of composite acre values have been discussed in previous procedures in this section and will not be readdressed here.

(*iii*) *Compute benefits to agricultural land from reduced gully and streambank erosion.* Agricultural land may realize benefits from reduced gully and streambank erosion through reduced land voiding; reduced production losses on adjacent areas; and efficiency gains on interdependent areas. Voiding refers to the complete and total destruction of the productivity of the land for agricultural use. Production losses on adjacent areas may be caused by a lowering of water tables; increased costs of production due to irregular field patterns, etc.; and less intensive land use. Efficiency gains on interdependent areas occur where elimination of a gully erosion problem provides a stable outlet for land treatment measures upstream, thereby allowing for a more intensive farming operation.

Benefits in each of these cases are determined by annualizing projected net income flows over the evaluation period at the project discount rate without and with the project. Associated land treatment costs are deducted from with project net income when computing an efficiency gain on an interdependent area. Average annual benefits are computed as the difference in net income with versus without the project.

(*iv*) *Compute benefits to agricultural land from reduced flood plain scour.* The potential for scour erosion is related to the depth and velocity of flood water and the resistance of the soil material to erosion. Benefits are determined in the same manner as for gully and streambank erosion, with one exception—namely, an allowance is made in projecting the net income flow with project to account for recoverable productivity.

(*v*) *Compute benefits to agricultural land from reduced sheet erosion.* Benefits are calculated in a similar fashion as for gully and streambank erosion reduction benefits on an interdependent area.

(*vi*) *Compute erosion benefits to other affected properties.* Erosion in its various forms often damages roads, bridges, fences, buildings, etc. Damages without the project can be determined by adding the annual cost of relocating the property to the annual value of any loss in the production of goods and services, or assuming total loss of the property at some future time. In the latter case, damages would be based on a depreciated current replacement cost, discounted to a present worth, and amortized. Annual damages with projects are then computed, based on total avoidance of the loss or a delay in such loss creditable to the project. Benefits are determined by subtracting with project damages from those without the project.

(F) *Sediment reduction benefits.* (*1*) Sediment damages occur from overbank deposition of infertile soils, impairment of drainage systems resulting in raised water tables (swamping), channel filling, and increased maintenance costs of other properties (i.e., roads, bridges, reservoirs, buildings, etc.). Benefits are measured as increased net income for agricultural crops and reduced damages to other properties.(*2*) The discussion which follows identifies key steps in the evaluation of each tape of benefit. The level of detail required for evaluation depends on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(*i*) *Identify areas with sedimentation problems.* Same as erosion procedure step (*i*).

(*ii*) *Develop net income data for affected agricultural lands.* Same as erosion procedure step (*ii*).

(*iii*) *Compute benefits to agricultural land from reduced overbank deposition and swamping.* Benefits in each of these cases are determined by annualizing projected net income flows over the evaluation period at the project discount rate for the without and with project condition. Average annual benefits are computed as the difference in net income with versus without the project. Benefits from reduced swamping damages will be based on the prevention of future damages only.

(*iv*) *Compute sediment benefits to other agricultural properties.* Damages without the project can be determined be adding the cost of expenditures for removing sediment from roads, culverts, channels, etc., over a representative period of time and then dividing by the years of record. Increased cost of providing goods and services (i.e., additional treatment costs for removing sediment from municipal water) can also be used to evaluate damages. Reductions of sediment removal or water treatment costs with project provide the basis for assessing benefits. Extending the useful life of an existing reservoir is another type of sediment benefit.

(2) *Problems in application.* The procedure for evaluating inundation benefits (agricultural crops) assumes that damage factors developed would be used for current and future without project conditions and for all with project alternatives considered. In theory, these factors might change for future time periods depending upon the relationship of commodity prices to costs as projected. This adjustment would be preferred; however, the use of damage factors for all time periods is acceptable unless there is a significant difference in the relationship of the projections.

(3) *Data sources.* (i) *Interviews.* Interviews with farmers and other watershed residents are important for most categories evaluated. Interviews should not be confined to flood plain farmers. Data collected outside the flood plain serve as a basis to establish flood-free yields and production inputs where flooding is not a problem, as compared with inputs on the flood plain. Only OMB approval forms should be used.

and each individual survey should be a part of supporting data.

(ii) *Physical specialists.* The agronomists and soil scientists can provide data to establish flood-free yields by soils and the effects that soil depletion will have on production. Data recorded on soil survey sheets by SCS soil scientists provide yields of crops for various erosion phases.

(iii) *Universities and federal agencies.* Most universities as well as ESCS and SCS have developed typical enterprise budgets that can be modified to reflect conditions in the area being studied.

(e) *Reports and display procedures.* Displays for the NED account will be shown by line items as follows: (1) Inundation Reduction Benefits. (i) Agricultural crops.

(ii) Other agricultural properties.

(2) Intensification Benefits.

(3) Changed Land Use Benefits.

(4) Land Stabilization Benefits. (i) Erosion Reduction. (A) Agricultural crops.

(B) Transportation.

(C) Other properties.

(ii) Sediment Reduction. (A) Overbank disposition.

(B) Swamping.

(C) Transportation.

(D) Other properties.

§ 704.124 Agricultural drainage.

(a) *Introduction.* This section provides procedural guidance for the evaluation of NED benefits to agricultural drainage features of Federal water project plans. External economies and employment benefits are covered in sections 704.131 and 704.132 and have therefore been omitted from this discussion. The procedures presented apply equally to both structural and nonstructural plan elements.

(b) *Conceptual basis.* (1) The NED benefit is the increase in the value of output of agricultural goods and services to the Nation under future conditions with the project versus without. Such benefits are measured as increased net returns and accrue through the employment of additional resources in the production process and more efficient resource use.

(2) Care must be exercised in the evaluation so as to identify only those benefits which are pertinent at a national level. This requires careful handling of each of the key evaluation components—cropping patterns, crop yields, crop prices, and production costs). A discussion of each follows:

(i) *Cropping patterns.* (A) Where project measures are expected to change the composite land use in a project area, the increased NED value due to project measures will be measured in terms of the net returns of crops that potentially can be increased to satisify national and international markets. Such crops shall presently be limited to the following: cotton, wheat, corn, soybeans, milo, hay, pasture, barley, and oats. Net returns for other crops are not to be included in the NED account since these crops usually involve relatively small acreage, produce high net returns and could be expanded on existing croplands within the region without the project.

(B) An additional NED benefit occurs where it can be shown that project lands both new and previously irrigated, drained, or protected from floods offer an efficiency advantage (i.e., production and transportation costs per unit of output are lower) over any other area in the production region for the production of crops other than those used for NED benefits. In such cases, the net efficiency gain may be included as a NED benefit for the additional output of these crops. Net efficiency gain may be measured as the difference in the costs per unit of output in the project area compared to the costs per unit of output of the marginal producers in the farm production region. This benefit may be claimed only when the project lands have an efficiency advantage over any other lands in the production region, including lands in production of the above named crops.

(ii) *Crop yield and prices.* (A) The sensitivity of crop prices to changes in market output is well documented. Where projected supply is expected to grow more slowly than projected demand, prices rise. This would increase net returns and encourages additional investment in agricultural production (i.e., more drainage). Where projected supply rises more rapidly than projected demand, however, prices drop. Investment in additional agricultural production is discouraged and less drainage development takes place.

(B) Proper NED evaluation requires that the future relationship of supply and demand for agricultural crops be structured into the analysis. A series of projected prices by time periods will therefore be used in evaluating NED drainage benefits. These prices will be developed by States or regions and will reflect market clearing conditions in the absence of those Federal programs which have pricing impacts. Such prices allow for a level of returns to each of the factors of production equal to their average costs in the future.

(iii) *Production costs.* Historically, the costs of operator and family labor, as well as management, have often been excluded from crop budgets. This assumes no long-run opportunity costs for these resources. The history of American agriculture clearly shows that this is not the case. Millions of workers have left the farm for employment elsewhere. Net outmigration is now near a standstill. To assume a zero opportunity cost for these resources is unrealistic. Appropriate charges should therefore be included in NED benefit calculations.

(c) *Planning setting.* (1) The evaluation of NED agricultural drainage benefits is made through a comparison of net income anticipated in the future with the project versus without. For analysis, the producer is considered to be the Nation as a whole. Relevant benefits therefore become the increased value of future agricultural output from the total of all lands.

(2) The without project condition is defined as the condition expected to exist in the future in the absence of a project or any change in law or public policy; whereas the with project is defined as the condition expected to exist in the future with a given project alternative. Since a number of alternatives are generally formulated in planning a particular project, there are a corresponding number of with project conditions.

(3) Relevant considerations for structuring the evaluation of each future condition are discussed below:

(i) *Costs (current).* (A) Only the costs which are expected to vary between the without and with project conditions need be analyzed. They may include the cost of equipment ownership, equipment operating, production materials, capital improvements to land, labor and management system OM&R and interest.

(B) Of these costs, purchased inputs should be valued at current market price, family and operator labor at prevailing farm labor rates, management at 10 percent of variable production costs (excludes the cost of land and added capital improvements), and interest at the project discount rate.

(ii) *Costs (future—with and without).* Project current costs by relevant time periods using the ratio of the current production cost index to the respective future indices. (WRC will supply indices.)

(iii) *Crop yields (current).* Use yields currently being realized on comparable areas within the region under average management.

(iv) *Crop yields (future—with and without).* Project current yields using historically derived rates. (WRC will supply rates for individual crops by States and/or regions.)

(v) *Crop prices (future—with and without).* Use projections of prices received for all crop outputs anticipated to be marketed direct. Use projections of prices paid plus an allowance for delivery costs to the farm for crop outputs anticipated to be marketed through livestock, (WRC will provide a series of price projections for target years.)

(vi) *Land use (present).* Use current land use and cropping patterns within the project area to be irrigated.

(vii) *Land use (future—with and without).* Project present land use and cropping patterns based on an evaluation of the land capability, expected demands for agricultural commodities, availability of markets, recent land use trends, and expectations of farmers and others.

(d) *Evaluation procedure.* (1) *General.* (i) Drainage problems on flatland areas are generally interrelated with inundation damages. Benefits in these cases are evaluated jointly and assigned to project purposes after the evaluation is completed.

(ii) National economic development benefits from agricultural drainage are computed in two phases. The first involves the computation of increased net returns which would result on project lands if no increase in the acreage of high net return crops occurred with versus without the project. And the second involves the computation of efficiency advantages which the project offers for those high net return crops projected to increase in acreage with the project. The total NED benefit is the sum of the benefits identified in each phase. (A) *Phase 1.* The discussion below identifies key steps pertinent to the Phase 1 evaluation. The level of detail required for this, as well as the Phase 2 evaluation, will depend upon the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(1) Identify current land use, cropping patterns, and crop yields. The number of acres by major land use (i.e., pastureland, hayland, and woodland), are to be identified for current conditions. Cropland use should be further defined to show the number of acres of each crop grown. This information should generally be developed by groupings of similar soils within the area to be drained. Yields are then determined for crops within each soil grouping. A careful reconnaissance of the problem area, together with interviews with farmers and consultation with physical scientists, is critical to establish the needed data.

(2) Establish net income increases by time periods. (i) Net income increases attributable to the project are determined by subtracting the change in variable costs with versus without the project from the change in gross income (change in agricultural output multiplied by price per unit of output). Such values are determined on a per acre basis for appropriate crops for each time period relevant to the evaluation. The acre values are then expended to the project as a whole utilizing projected acreages with and without project.

(ii) Projected maintenance of existing on-farm drainage systems and installations of new systems without and with the project should be incorporated into the calculations, as should any substantial physical constraints to yields other than drainage impairment. Where increased acreages of high net return crops are anticipated with project, the planner will perform the analysis using low net return crop surrogates. Selection of these surrogates will be based on the planner's best estimate of which low net return crop would most likely be grown.

(3) Compute benefits. Annual increases in net returns are determined by discounting the flow of increased net returns identified under (ii) above to a present value and then amortizing the same over the project life at the project discount rate.

(B) *Phase 2.* NED benefits from increased acreages of high net return crops with project are measured by the difference in net income from such crops on project lands in comparison to the next best available site. A true analysis of this benefit would require a model of interregional competition between producing areas. This is not deemed feasible. The following shortcut procedure should therefore be used.

(1) Determine project net returns for the high net return crop. Calculate the net returns to land for a representative acre of the high net return crop for each time period relevant to the evaluation. Annualize the resulting income flow by discounting to a present value and amortizing over the project life at the project discount rate.

(2) Locate alternative production site. Identify the nearest major market for the high net return crop in question, as well as the area served by that market. The market selected should be large enough to have production cost and yield data readily available.

(3) Determine the net returns for the high net return crop on the alternative site. Use the same approach as specified under (a) above. Average production costs and crop yields realized in the service area of the market will provide the framework for the analysis.

(4) Compute benefits. Subtract the per acre net for the region from the project net. If the difference is a positive number, multiply the per acre efficiency gain by the projected increase in acreage with versus without the project.

(2) *Problems in application.* (i) One potential pitfall is the imputation of returns to factors of production other than drainage water into drainage NED benefits. This could occur, for example, if a project increases the amount of family labor used in crop production activities on the farm and the value of such labor is disregarded in the budget preparation process. Net income without and with the project becomes correspondingly higher as do benefits to drainage.

(ii) The reverse can also happen in that legitimate NED benefits to drainage may be imputed as economic rents to other factors in the production process. Cases in point might involve (A) the use of two distinctly different production functions for identifying the level of fertilizer usage under the without and with project conditions for a given crop or (B) the use of two separate schedules for determining machine and power costs for the two conditions, even though the types of crops grown and acreages do not change significantly. Problems of this type can be avoided by using a single production function for fertilizer and a single equipment schedule for production cost determinations.

(3) *Data sources.* Interviews with farmers are good sources of information for production costs, yield responses to varying levels of drainage, and expected cropping patterns without and with the project. (Only OMB approved forms should be used.) Specialists, such as agronomists and soil scientists, can be used as information sources on soil productivity and yield responses to drainage. Many universities and a number of Federal agencies have developed typical enterprise budgets that can be modified to reflect conditions in the project area.

(e) *Report and display procedures.* Benefits should be displayed in the NED account as follows: (1) *Benefits from drainage.* (i) Change land use.

(ii) More intensive land use.

(2) *Benefits from inundation reduction (where applicable).* (i) Change in land use.

(ii) More intensive land use.

§ 704.125 Urban flood damage.

(a) *Introduction.* This chapter provides guidance in the application of economic principles for evaluating national economic benefits from reducing urban flood hazards. This procedure provides for equal consideration of structural and nonstructural alternative plans or combinations thereof. It also provides a basis for evaluating the economic significance of water damages resulting from stream overflow, high lake stages, or high tides.

(b) *Conceptual basis.* (1) *General.* Benefits from plans for reducing flood hazards accrue primarily through the reduction in actual or potential damages associated with different land use. The standard for evaluating benefits is the willingness of users to pay for the plan or increments thereof. In evaluating flood hazard reduction plans, the term "user" must be broadly construed because a key part of the evaluation of plans is the evaluation of the economic externalities associated with existing uses of the flood plains.

(2) *Benefit categories.* While there is only one benefit standard, there are three benefit categories thereunder, reflecting different activity decisions made in response to a flood hazard reduction plan—namely:

(i) *Inundation reduction benefit.* When flood plain use is the same with and without the plan, the benefit is the increase in net income generated by the flood plain activity. When an activity is removed from the flood plain, this benefit will result only to the extent that its removal increases the net income of other activities in the economy—for example, through the reduction of emergency costs or through the reduction of subsidized reimbursements for flood damages.

(ii) *Intensification benefit.* When a commercial or industrial activity located on the flood plain without the plan modifies its operation because the reduction in the flood hazard makes it profitable to do so, the benefit is the increased net income generated by the activity compared with and without project conditions.

(iii) *Location benefit.* When an activity uses the flood plain with a plan but not without the plan, the benefit is the difference between aggregate net incomes (including economic rent) in the economically affected area with and without the plan. The difference between estimated market value of the flood plain land with and without the plan can be taken as an estimate of the present value of the difference between aggregate net incomes with and without the plan.

(3) *Types of flood damage.* Flood damages can be classified as physical damages or losses, income losses, and emergency costs. Each activity affected by a flood experiences losses in one or more of these classes. Such classification assists in identifying and evaluating the losses and in relating variations in their magnitude to the range of flood conditions expeced with and without the project.

(i) *Physical damages.* These include the damages to or loss of buildings or parts thereof; loss of contents, including furnishings, equipment, decorations, stock of raw materials, materials in process, and completed products; cost of cleanup; loss of roads, sewers, bridges, power lines, and so forth.

(ii) *Income losses.* Losses of wages or of net profits to business over and above physical flood loss usually result from a disruption of normal activities caused by flooding. They bear no consistent relation to physical damages and must be derived from specific independent economic data for the interests and properties affected. Prevention of income losses results in a contribution to national economic development only to the extent that such losses cannot be compensated by postponement of an activity or through transfer of the activity to other establishments.

(iii) *Emergency costs.* These will include those additional expenses resulting from a flood that would not otherwise be incurred, such as evacuation and reoccupation; flood fighting; disaster relief; increased expense of normal operations during the flood; and increased costs of police, fire, or military patrol. Emergency costs should be determined by specific survey or research and may not be estimated by applying arbitrary percentages to the physical damage estimates.

(c) *Planning setting.* (1) *General.* The benefit of flood hazard reduction plans must be based on a careful analysis of the with and without project conditions. In each instance, the analyst must carefully project the most likely land uses for the without project condition and the with project condition for each of the various alternatives considered. Different project alternatives may result in different land uses over time. For example, a levee alternative may maintain existing land use, while an evacuation alternative would completely alter land use. Benefit categories (section 2b) that result from a particular alternative are totally dependent upon the comparison of land use with and without that particular alternative.

(2) *Without project condition.* The without project condition is defined as the land use and related conditions likely to occur under existing improvements, laws, and policies. There are three significant assumptions inherent in this definition: (i) *Existing and authorized plans.* Existing and authorized flood hazard reduction plans normally will be considered in-place. Careful consideration will be given to the actual remaining economic life of existing structures.

(ii) *Flood disaster protection act.* The adoption and enforcement of land use regulations pursuant to the Flood Disaster Protection Act of 1973 (PL 93-234) will be assumed. (A) *Regulation certified or near certification.* The Agency will assure that the land use regulation has been or will be certified by the Flood Insurance Administration (FIA) as adequate under 24 CFR 1910.3(c) and/or (d) and 24 CFR 1910.5. In such cases, the without conditions are developed pursuant to the regulation. Further structural, nonstructural, and mixed alternatives will be considered in plan formulation.

(B) *Regulation not yet certified.* It will be assumed that the local jurisdiction will adopt land use regulations certifiable to FIA in the near future under the without condition as a datum and under the with condition when a residual hazard will remain. This applies to flood plains regulated pursuant to 24 CFR 1910.3(a) and (b); to flood plains presently regulated by local ordinances independent of FIA; and to flood plains with no flood regulation presently in effect. The regulation assumed will include the following three crucial features: no further development of the flood plain unless the lowest floor (including basement) of the building is elevated to the 100-year flood level for residences or flood proofed to that level for nonresidences; no occupancy of the floodway fringe which when taken with other developments raises the height of the 100-year flood level by greater than one foot anywhere in the flood plain; and no occupancy of the floodway.

(C) *Application.* As a practical matter this assumption means that flood proofing costs will be incurred if an activity decides to locate in the flood plain. Such costs may be reduced under some which project conditions.

(iii) *Flood plain management guidelines.* The adoption and enforcement of Water Resources Council (WRC) Floodplain Management Guidelines for Implementing Executive Order E.O. 11988, as well as E.O.

11990—Protection of Wetlands, will be assumed.

(iv) *Individual actions.* Over and above the prior three assumptions, the analyst should consider that individuals will undertake certain flood hazard reduction measures such as floodproofing when the disparity between their potential flood damages and the cost of measures to reduce these damages suggests that it is rational to do so.

(3) *With project condition.* The with project condition is defined as the most likely condition expected to exist in the future if the alternative project is undertaken. Because there are many alternative projects, there are many with project conditions. In projecting these with project conditions, the analyst must be sensitive to the relationship between land use and the characteristics of the flood hazard for the alternative being analyzed. The same assumptions underlie the with project conditions as underlie the without project condition. In addition: (i) A range of nonstructural alternatives will be considered fully and equally with structural alternatives. (ii) Full and equal consideration also will be given to mixed plans involving interdependent structural and nonstructural measures. (iii) Project alternatives can differ in their timing, as well as in their physical characteristics. The optimal timing of projects and of individual project features should be considered in project formulation.

(d) *Evaluation procedure.* (1) *General.* There are 10 day steps which must be completed, in order to compute benefits. The steps are primarily designed to determine land use and relate it to the flood hazard from an NED perspective. The level of effort expended on each step depends on the nature of the proposed improvement and on the sensitivity of project formulation and justification to further refinement.

(i) *Step 1: Delineate affected area.* (A) The area affected by a proposed plan consists of the flood plain plus all other nearby areas likely to serve as alternative sites for any major activity-type which might use the flood plain if it were protected; one example of a major activity-type is commercial. Where the potential use of the flood plain includes industrial use within an SMSA, the entire SMSA is the affected area; for residential use, even within an SMSA, a much smaller area may be envisioned.

(B) Output: A specification of the geographic area to be studied.

(ii) *Step 2: Project activities in affected area.* (A) Economic and demographic projections should consider at least the following: population, personal income, recreation demand and manufacturing, employment, and output. For any given area, additional projections may be necessary depending upon the potential uses of the flood plain and the sensitivity of the plan to these projections. Projections should be based on assessment of larger area trends and appropriate data (e.g., OBERS); the relationship of historical data for the affected area relative to trends projected for larger areas; and consultation with knowledgeable local officials, planners, and others. The basis for affected area projection will be clearly specified in the report.

(B) Output: A list of the number of activities which might use the flood plain.

(iii) *Step 3: Estimate potential land use.* (A) Potential land use demand within the affected area is obtained by converting demographic projections (e.g., population) to acres. Such conversion factors will normally be derived from published secondary sources, from agency studies of similar areas, or from empirical data available in the affected area. The categories of potential land use need be only as detailed as is necessary to reflect the incidence of the flood hazard and to establish the benefits derived from a plan.

(B) Output: Number of acres associated with activities in Step 2.

(iv) *Step 4: Determine flood plain characteristics.* (A) The existing characteristics of the flood plain must be delineated before it is possible to determine its potential uses. Therefore, an inventory of the flood plain will be undertaken in order to determine those characteristics which make it attractive or unattractive for the land use demands established in Step 3. Emphasis will be placed upon those characteristics which distinguish the flood plain from other portions of the affected area. The following categorization should be used as a guide.

(1) Inherent characteristics of a flood plain. Most flood plains have the following characteristics: flooding; floodway and natural storage; natural and beneficial values, including open space, recreation, wildlife, and wetlands; transportation; and other.

(i) Flooding. A description of the flood situation will be presented, including a designation of high hazard areas. This description will include the characteristics of the flooding, such as depths, velocity, duration, debris content, area flooded by flood of selected frequencies (including 100-year frequency), historical floods, and, where applicable, Standard Project Flood (SPF).

(ii) Floodway, natural storage. A description and delineation will be presented of those areas which, if urbanized or structurally protected, would affect natural storage, velocity, or stage or would in any way affect flood flows elsewhere.

(iii) Natural and beneficial values, including open space, recreation, wildlife, and wetlands. Many flood plains, particularly those near urban areas, are potential recreation, open space, wetland, or wildlife preserves. The potential of the flood plain for these purposes must be recognized and presented.

(iv) Transportation. Flood plains near navigable streams have inherent attractiveness for industries which demand water-oriented transportation. Flood plains also serve as sites for railroads, highways, pipelines, and related facilities which are not susceptible to serious flood damage yet tend to attract industry to the area.

(v) Other attributes. Other inherent attributes may include soil fertility, reliability of water supply, waste disposal, and sand, mineral, and gravel deposits.

(2) Physical characteristics. Pertinent physical characteristics should be described, including slope, soil types, and water table.

(3) Available services. Most activities require some or all of the following: transportation facilities (highways and rail), power, sewerage, water, labor, and access to markets. The availability of such services in or near the flood plain will be indicated, including comparisons with other portions of the affected area.

(4) Existing activities. The inventory of the flood plain will include a list of existing activity-types, the number of acres, and the density, age, and value of structure for each activity type of flood hazard zone.

(B) Output: The available flood plain acres for use by the activities in Step 3 above, including the characteristics thereof.

(v) *Step 5: Existing flood damages.* (A) Existing flood damages are potential average annual damages to activities affected by flooding at the time of the study. Existing damages are those either expressed for a given magnitude of flooding or as computed in the damage frequency process. No projection is involved. The basis for the determination of existing damages shall be losses actually sustained in historical floods. Therefore, the analyst should specify the year and month for all

significant discharges above zero point of damage and indicate damages actually sustained by reach or zone and type of property and activity. Data on historical flood losses must be supplemented by appraisals and an inventory of the capital investment (including structures and contents) within the flood plain. Estimates of damages under existing conditions for floods of magnitude which have not historically occurred must be computed. Average annual losses will be estimated by using standard damage-frequency integration techniques. The incidence of such flood damages will be assessed by activity-type and by whether the damages are or could be passed on (externalized) to the public via subsidized flood insurance or other means.

(B) Output: Unit and total flood damages for existing land use for the activity-types in Step 4 above.

(vi) *Step 6: Future flood damages.* (A) These are damages to economic activities in step 3 which might use the flood plain in the future in the absence of a plan. This step will be used iteratively with Step 8 (land use) to determine land use and associated damages for each future with and without condition. Future includes any time period after the year in which the study is to be completed. In order to ultimately relate costs to benefits, however, future damages must be discounted to the base year.

(B) Future flood damages should be determined on the basis of losses borne by the flood plain occupant (internalized losses) and those borne by others, through insurance subsidies, tax deductions for casualty losses, disaster relief, etc. (externalized losses); see Step 5.

(*1*) *Hydrologic changes.* Changes in basin land use may result in major alteration of the drainage characteristics, particularly surface runoff; such hydrologic changes must be projected for the planning period. Average future hydrologic conditions shall not be used; such techniques obscure situations where a project level of protection may be significantly different by the end of the planning period compared to average conditions.

(2) Economic changes. Economic changes can be expected to result in a change in the level of flood losses in the future. The following three paragraphs discuss the projection of future flood damages. The level of detail in projecting future flood losses should be based on the effect of the analysis of plan formulation and evaluation. A benefit-cost ratio for existing condition will always be shown. If it is greater than unity, the projection of future benefits may be accomplished in abbreviated form, unless it would distort the comparison of alternatives or the cost allocation and cost sharing in multiple purpose projects. In the latter situation the detail and accuracy of the estimates of flood control benefits should be comparable to benefit estimates for other water resources purposes.

(3) Measurement and projection of physical damages. Measurement and projection of flood damages must be based upon the establishment of actual, observed relationships between damages, flood characteristics, and those indicators used for measurement and projection. These relationships will be modified as appropriate by consideration of constraints which change the historically derived relationship between flood damages and a given indicator. Basically, damages are a function of the number and value of each physical unit of property in the flood plain adjusted for the damage susceptibility at each stage of flooding. All of these interrelationships must be made explicit in the analysis and their accuracy and representativeness must be supported by empirical evidence. Three steps are to be used in measuring flood damages for a future year: estimate the number and size of physical units; estimate the future value of units; and determine the damage susceptibility of units.

(i) Physical units. The first step in measuring flood damages for a future year is to determine from Step 3 the number and size of physical units with potential to use the flood plain by hazard zones for each activity-type. Care must be taken to determine whether existing structures will continue to occupy the flood plain over the period of analysis and, if not, the future land use and damage potential.

(ii) Value per physical unit. This involves estimating future unit value and, eventually, damages. The following rules are derived from an empirical study of flood-prone property; no deviation is permitted.

Existing development. The OBERS regional growth rate for per capita income will be used as the basis to increase the real value of residential contents in the future to account for the effects of the affluence factor.

Future development. The values of contents within new residential structures will be projected from the year each unit is added.

Translation to future flood damages. The projected rate of increase in the value of flood-susceptible household contents will be used as the basis to increase the future unit flood damage to household contents.

Limit. The value of contents may not exceed 75 percent of the residence structural value, unless an empirical study proves that a special case exists (e.g., trailer parks).

Commercial and industrial property. The unit values of commercial and industrial property categories will not be increased over time using the procedure described above. Increase in the values of commercial and industrial property in the flood plain may result from expansion of existing facilities as well as from construction of new units; such increases will be evaluated as new development units.

(iii) Damage susceptibility. Once the number of physical units and the value associated with each unit are known, damage susceptibility relationships must be established as a function of total value of each physical unit and the flood characteristics of the stream, such as velocity, depth, duration, volume, debris control, and salinity. Some of the determinants of damage susceptibility are type of activity, vertical development, location within flood plain, nature of floodproofing, construction material used, and individual response.

(4) Projection of income losses. Income losses can be projected to increase in the future on the basis of projected land use. In no event will increases in physical losses be used to project income losses.

(5) Projection of emergency costs. Emergency costs encompass a wide variety of programs. Some, such as emergency shelter and food, are primarily a function of the occupancy of the flood plain, but not of the value of development in the flood plain itself. In no event will emergency costs be projected to increase as a direct function of physical losses.

(C) Output: Potential future flood damages by the activity-types in Step 3 above for different flood plain zones.

(vii) *Step 7: Other costs of using flood plain.* (A) The impact of flooding on existing and potential future occupants is not limited to flood losses. In some cases, the impacts are intangible; but in some cases they can be translated into NED losses. These include the following.

(1) Flood proofing costs. High flood hazards lead to high flood costs. Therefore, floodproofing costs for different activity-types (Step 3) and

different flood hazard zones should be computed. Internalized and externalized costs should be clearly differentiated as in Step 5.

(2) National flood insurance costs. A national cost of the flood insurance program is its administration. For flood insurance policies actually in effect at the time of the study, the cost for servicing the policies should be determined based upon the average cost per policy including agent commission and the costs of servicing and claims adjusting. FIA should be contacted to obtain such costs. These are externalized costs in the case of subsidized policies.

(3) Modified use. In some cases, the flood hazard has caused structures to be used less efficiently than they would be in the absence of a project. For example, the first floor of garden apartments may not be rented because of a flood hazard. Or property may be configured in a different way with versus without a plan.

(B) Output: Flood proofing and other costs associated with the activities in Step (6).

(viii) *Step 8: Project land use.* (A) Given the existing characteristics of the flood plain and the remainder of the affected area previously designated, land use demand must be allocated to flood plain and non-flood plain lands, for the without project condition and with each alternative flood plain management plan.

(1) Basic factors. The allocation shall be based upon a comparison of the flood plain characteristics, the characteristics sought by potential occupants, and the availability of sought-after characteristics in the non-flood plain portions of the affected area.

(2) Criteria. The flood plain will not be used unless it possesses characteristics which give it a significant economic advantage over all other available sites within the affected area from the perspective of the potential user. If such advantages exist, the analyst must determine whether they overcome potential flood losses, potential floodproofing costs, and other related hazard costs. Flood losses and costs will be specific to the zone of the flood plain being considered.

(B) Output: Flood plain land use with and without project for activity-types in Step 3 above for present and future years.

(ix) Step 9: Collect land market value and related data. (A) Where land use is different with and without the project, the difference in income must be computed for the land with and without the project. This is generally accomplished using land market value data. Supporting data will be required in the following situations: *(1)* Where land use is different with compared to without the project, the following data will be collected as appropriate to complete Step 10.

(i) Comparable value. If the plan does not result in a major addition to the supply of land in the area, the value with protection is the market value of comparable flood-free land. If the plan results in a major addition to the supply, the effect on the price of land should be taken into account in estimating the value of flood plain lands with protection. The flood-free land must be comparable in terms of physical and infrastructural characteristics (e.g., water availability, transportation, soil stability, utilities, and amenities).

(ii) Existing value. The value of nearby flood plain sites should be used or, where reasonable, the current value of the flood plain. In either case, the current and, where available, past market values of the flood plain will be reported. Actual market values will be used, not capitalized income values. Hence, it must not be assumed that the value of land being used for agriculture in an urban or urbanizing situation is the capitalized value of agricultural returns or that any value higher than that is due to (1) speculation on a Federal project or (2) lack of knowledge. On the contrary, without values in excess of agricultural values are to be expected, reflecting the probability of future use as well as existing and anticipated infrastructural investments (e.g., highways and water supply).

(iii) Net income data. The net income (earned) with the project may be estimated directly based on an analysis of a specific land use with the project. For example, this approach would be used for lands to be developed for recreation. The projected recreation benefits would constitute the gross income (earned on the flood plain) and would be shown as a project benefit.

(iv) Encumbered market value. The market value of the land with an encumbered title will be estimated for inclusion as a benefit in Step 10 in situations where the flood plain is to be evacuated, where no specific public use is planned, and where the land could be resold with an encumbered title (which would assure that future uses would be consistent with Executive Order 11988 on Flood Plain Management).

(2) Where land use is the same but more intense, as when an activity's use of the flood plain is modified as a result of the project determination of the increase in income may be based on increased land values or direct computation of costs and revenues.

(3) In the case of an evacuation plan, an open space use of the flood plain with project may give rise to a positive externality on adjacent lands. This positive externality reflects the amenity of living near park land or open space, and it may be measured as the projected increase in market value of property adjacent to the encumbered flood plain. Such benefits must meet the test of any NED benefit and thus must be documented by empirical evidence. Care must also be taken to avoid double counting of benefits; e.g., changes in market value of properties adjacent to a restored flood plain may reflect recreation or open-space benefits to occupants of those properties.

(4) In situations where the market value of existing structures and land is lower because of the flood hazard, restoration of the market value may represent a quantification of otherwise intangible benefits. In such cases, the benefit is taken as the difference between increased market value and that portion of increased market value attributable to flood damages reduced. Careful attention should be given to assuring that factors not related to the flood hazard are not included as project benefits.

(5) Projected increases in the market value of land with and without a plan over the project life may not be used to measure flood hazard reduction benefits. This is because the current market value of land theoretically captures the expected stream of income over time.

(B) Output: Land market value and related data for situations from Step 8, where with and without plan uses are different and/or where significant externalities are involved.

(x) *Step 10: Compute benefits.* (A) At this point in the analysis, sufficient information is available to compute benefits for structural and nonstructural measures. Table I displays the types of benefits claimable for three of the major flood hazard reduction measures and the steps in the procedure that provide the necessary data. The table applies generally; specific cases may vary. All benefits should be discounted and annualized at the appropriate discount rate. Benefits are categorized in the following way:

(1) Inundation reduction benefits. (i) To the extent that Step 8 indicates that land use is the same with and without the project, the benefit is the difference in flood damages with and without the project (Step 6), plus the reduction in floodproofing costs (Step 7), plus the

reduction in insurance overhead (Step 7), plus the restoration of land values in certain circumstances (Step 9). To the extent that Step 8 indicates a difference in land use for an evacuation plan, the benefit is the reduction in externalized costs of flood plain occupancy which are typically borne by taxpayers or firms providing services to flood plain activities.

Examples so such costs are subsidized flood insurance; casualty income tax deductions; flood emergency costs; and flood damages to utility, transportation, and communication systems. Reduction of externalized costs of flood plain occupancy, that is, reduction of costs not borne by the flood plain activities, can be a major benefit of projects to evacuate or relocate flood plain activities. Reduction of flood damages borne by flood plain activities because they are already accounted for in the fair market value of flood plain properties cannot be claimed as a benefit of evacuation or relocation.

(*ii*). One category of external costs associated with flood plain occupancy that can be avoided by a removal plan is public compensation for private flood damages through the subsidized Federal Flood Insurance Program. Expressing savings in these externalized costs as project benefits is appropriate for properties in communities which participate in the Federal Flood Insurance Program or are expected to participate under the without project condition. This benefit is based on reduction of insurable flood damages. Insurable flood damages are to be projected over the life of the project with careful attention to the projected without condition.

(*iii*) The projection of insurable flood damages is to be based upon traditional depth-damage-frequency relationships used in projecting total flood damages. However, projected total damages are to be reduced by subtracting losses which are noninsurable becasue either they are not insurable loss categories or they exceed the coverage limits of the subsidized program; the deductible portion of each expected flood damage event; and the annual cost of the insurance premium paid by the policyholders. For this benefit calculation, it is to be assumed that all eligible parties purchase subsidized insurance. This assumption is appropriate bacause the market value of properties, which determines project costs, reflects the availability of the program, not the extent of its utilization by current flood plain occupants.

(*2*) *Intensification benefits.* Where Step 8 indicates that land uses are the same with and without the project, but activity is more intense with the project, the benefit is measured as the increase in market value of land from Step 9(b) *or* direct income changes from Step 7(c). Care must be taken to avoid double counting by using both methods.

(*3*) *Location benefits.* Where Step 8 indicates that land use is different with and without the project, the benefit is measured by the change in the net income or market value of the flood plain land and certain adjacent land where, for example, the plan creates open space (Step 9).

(b) Output: Average annual benefits.

(2) *Problems in application.* There are four major problem areas in computing flood hazard reduction benefits: (i) *Income losses.* The loss of income by commercial, industrial, and other business firms is difficult to measure because of the complexity involved in determining whether the loss is recovered by the firm at another location or at a later time. Direct interview and empirical post-flood studies are the most appropriate data sources for analyzing whether a real resource loss, such as idle capital or decaying inventories, is involved. The loss of income because of idle labor may be measured from the point of view of the firm or the household, but care must be taken to avoid double-counting. Loss of income because of idle labor must be net of income to labor employed in cleanup and repair of damages.

(ii) *Intensification benefits.* This category of benefits is primarily applicable to agriculture flooding. Its applicability to urban situations is theoretically valid, but there are few convincing case studies to date. Normally, this benefit cannot exceed the increased flood damage potential comparing the existing activity to the intensified activity (without the proposed plan).

(iii) *Risk.* The analysis of response to a flood hazard is based upon a probability weighting of floods of various magnitude. This implies that flood plain occupants are risk-neutral. However, many occupants, individually or as a group, either avert or accept risk. Hence, responses to acutal and potential flood damages should be viewed broadly in determining land use, mode of conducting business, and even benefits. The analyst must explain any significant deviations from expected behavior based on actual or potential flood damages computed on a risk-neutral basis.

(iv) *Sensitivity analysis.* Uncertainty must be addressed in the analysis of NED benefits and costs. To a degree this uncertainty will be addressed during the study by gathering more information on critical, uncertain items and by using standard, reviewable data sources (e.g., OBERS).

(3) *Data sources.* The basic data sources have been mentioned in the preceeding section, "General Discussion." The following summarizes problems associated with two key sources: (i) *Interviews:* The basic use of interviews is for collecting flood damage data; however, personal interviews may be used to collect any necessary data not available from secondary sources. Only forms approved by the Office of Management and Budget should be used. Statistically sound techniques will be used for selecting the interview sample and for devising the questions. The questionnaire and a summary of responses will be compiled and displayed in the final report in such a way as to prevent individual disclosures.

(ii) *Local land use plans.* Local land use plans and zoning ordinances are valuable guides to future land use in the flood plain. However, such plans and ordinances should be followed with caution. The demographic implications of the local plans and ordinances must be consistent with, or convincingly distinguished from, a larger area trend; e.g., OBERS. The status, date, and likelihood of change are factors in assessing the utility of the local plan. Finally, the plan would not be an acceptable projection for the without condition, to the extent that it ignores the flood hazard.

(e) *Report and display procedures.* The report must include sufficient data to enable the reviewer to follow the key steps above and, most important, the underlying rationale for the project. (1) Report procedures for risk and uncertainty. To assist reviewers in assessing their own responses to risk (and as basic data for later use in the social wellbeing account), the following will be separately summarized and displayed in tabular form:

(i) *Remaining flood damage situations: categorizations.* The remaining damages are those expected to occur even with a flood plain management plan in operation. Remaining damages include: (A) Damages to activities which would occupy the flood plain with as well as without the plan;

(B) Damages to activities which would occupy the flood plain only with the plan; and

(C) Increased damages to activities outside the protected area under the

with—as compared to the without—condition.

(ii) *Flood with two-tenths of one percent chance of occurrence.* The flood with two-tenths of one percent chance of occurrence (500-year frequency) will be fully described with and without the plan. The report will contain, for exampe, "two-tenths of one percent flood" damages; number of people and towns affected; the number of structures and acres by land use type; disruption of essential services (water, power, fire protection, and sanitary serivces) and distance to unaffected essential services; anticipated warning time; flood depths, velocity, duration, debris content, and the like; and other indicators pertinent to catastrophic flooding. A catastrophe occurs when an urban area is crippled for a sustained period, where a substantial infusion of Federal, State, or regional rehabilitation funds (disaster relief) is necessary, or where it could be expected to be deemed a Federal or State disaster area. Likewise, a catastrophe occurs were a serious danger to life exists or extesive property damage results. The results of the "two-tenths of one percent flood" analysis must be presented in appropriate tabular form in the report.

(2) Sensitivity analyses. The report will contain sensitivity analyses which present a range of benefit levels representing data and assumptions about which reasonable persons might differ. The reported benefit level will be that level which is most probable; other levels are presented for public information. The following specific analysis must be conducted and presented in the report, for the final array of alternatives:

(i) *Break-even years.* There are two significant break-even years: the project year in which undiscounted annual benefits first exceed annual changes and the project year in which discounted benefits exceed annual charges assuming no further increases in benefits. As used herein, annual charges for multiple-purpose projects are based on allocated costs.

(ii) *Internal rate of return.* The internal rate of return is the rate of intrest at which benefits equal costs over the period of analysis (i.e., benefit cost ratio equals 1.0).

(iii) *Discount rate.* For authorized projects, the effect of using the current Federal discount rate should be presented.

(iv) *Value per structure.* As previously discussed, increases in future damages relate to increases in the number of structures and to increases in the value of structures and contents. Wherever increases in damages are based upon increases in value, a sensitivity analysis should be accomplished under the alternate assumption, that there is no increase in the average value of structure or contents and that increases in damages are due solely to increases in the number of structures and/or shifts from one type of structure to another.

(3) Summary Tables. Summary tables 2–6 are suggested presentations for all reports that include flood hazard reduction as a purpose. Other summary tables may be necessary and pertinent, such as the specific display requirements presented in Section 4. The summary tables should include pertinent land use for computing not only national economic development benefits, but also environmental, social, and regional impacts.

Table 2.—*Guide to Types of Benefits*

	Types of project		
Type of benefit (and step)	Structural	Flood proofing	Evacuation.
Inundation:			
Externalized flood damages (step 6)	Claimable	Claimable	Claimable.
Internalized flood damages (step 6)	Claimable	Claimable	Not claimable.
Flood proofing costs reduced (step 7)	Claimable	Not claimable	Not claimable.
Reduction in insurance overhead (step 7)	Claimable	Claimable	Claimable.
Restoration of land value (step 9d)	Claimable	Claimable	Not claimable.
Intencification (steps, 7(c) 9(b))	Claimable	Claimable	Not claimable.
Location:			
Difference in use (step 9a(1) and (2))	Claimable	Claimable	Not claimable.
New use (step 9a(3))	Not claimable	Not claimable	Claimable.
Encumbered title (step 9a(4))	Not claimable	Not claimable	Claimable.
Open space externality (step 9(c)	Not claimable	Not claimable	Claimable.

Table 3.—*Summary of Average Annual NED Benefits and Costs for Alternative Projects*

[Thousands of October 1979 dollars]

Applicable Discount Rate:——

	Alternatives			
	1	2	3	N
Flood hazard reduction benefits:				
Inundation:				
Physical				
Income				
Emergency				
Total, inundation				
Intensification				
Location:				
Flood plain				
Off flood plain				
Total location				
Flood hazard reduction.				
Total benefits				
Other purposed benefits				
Total project benefits.				
Project costs				
Total net benefits				

Table 4.—*Flood Damages by Decade Alternative Projects*

[Thousands of October 1979 dollars]

Applicable Discount Rate: ——

	Time period [2]			AAE
	P0	P10	P20, etc.	
Project: [1]				
No. 1				
No. 2				
No. 3				
N				

[1] Project in System of Accounts.
[2] The designations P10 and P20 identify the 10th and 20th years, respectively, of project life.
[3] Average annual equivalent.

Table 5.—*Flood Damages by Decade Without Projects*

[Thousands of October 1979 dollars]

Applicable Discount Rate: ——

	Time period [1]					
Property Type	P-50	P-40, etc.	Existing P10	Existing P0	Existing PN	AAE [2]
Residential:						
a [3]						
b						
c						
Commercial						
Industrial						
Other						
Total						

[1] The designations P10 and P20 identify the 10th and 20th years, respectively, of project life. P-50 is 1929, P-40 is 1939, etc.
[2] Average annual equivalent.
[3] Subclassification of residential.

Table 6.—*Number of Acres (or Structures)*

[Flood Plain Without Project [1]]

	Acres							
	Existing	Time period [2]						
		PO	P10	P20	P30	P40	P50	P100
Property type:								
Residential	×	×	×	×	×	×	×	×
a [3]	×	×	×	×	×	×	×	×
b	×	×	×	×	×	×	×	×
c	×	×	×	×	×	×	×	×
Commercial	×	×	×	×	×	×	×	×
Industrial	×	×	×	×	×	×	×	×
Semipublic	×	×	×	×	×	×	×	×
Transportation	×	×	×	×	×	×	×	×

[1] Comparable table for all alternatives, where pertinent.
[2] The designations P10 and P20, identify the 10th and 20th years, respectively, of project life.
[3] Subclassification of residential units.

§ 704.126 Power (hydropower).

(a) *Introduction.* This chapter describes procedures for the economic evaluation of hydropower projects. These projects include single-purpose hydropower projects, inclusion of hydropower as a function in new multipurpose projects, addition of power-generating facilities to existing water resource projects, and expansion of existing hydropower plants.

(b) *Conceptual basis.* (1) The conceptual basis for the evaluation of the energy produced by hydroelectric powerplants is society's willingness to pay for these outputs. This willingness to pay is to be compared to the costs required to provide the energy, in order to decide whether a project is justified on the NED account.

(2) Willingness to pay, in application, is measured in ways that are appropriate to the technical and institutional characteristics of a project purpose. In the case of hydropower, the willingness to pay criterion for outputs has been applied in the form of the alternative cost measure of benefits. The alternative cost measure of benefits is strictly correct as a measure of the NED benefits of a project if two conditions hold: First, that the gross benefits of the alternative are the same as those of the project under consideration; second, that the alternative will be implemented if the project under consideration is not implemented. This second condition is often referred to as the condition that the alternative is the "most likely" alternative.

(3) This approach has been used in the case of hydropower evaluation because it has been reasonable to assume that a hydropower plant is within the public sphere of action, that the alternatives are within the private sphere, and that the alternatives will be built to meet projected NED demands for power if the public power project if not built. In this situation, the only choice facing the public is whether to build a public hydropower plant and thus avoid incurring the cost of constructing the alternative in the private sector.

(4) The calculation of alternative costs to be used as a measure of NED benefits shall be on the following basis: (A) all interest and amortization costs charged to the alternative shall be calculated on the basis of the Federal discount rate; (B) no costs for taxes or insurance shall be charged to the alternative; and (C) all other assumptions and procedures used in calculating the costs of the alternatives including external diseconomies shall parallel those employed in calculating the costs for the proposed Federal project.

(5) The NED benefits of nonstructural programs are also measured in principle by society's willingness to pay for them. The alternative cost measure can be employed directly if it can be assumed that the willingness to pay of energy users for reducing demand is the same as their willingness to pay for meeting demand. Where this is not entirely the case, suitable adjustment must be made to account for the difference between energy user's willingness to pay for reducing demand and their willingness to pay for meeting demand.

(c) *Planning setting.* (1) *Without project condition.* The without project condition is defined as the most likely condition expected to exist in the future in the absence of a project and any changes in law or public policy. The following specific assumptions are to be built into the projected without condition:

(i) *Existing resources.* Existing generating resources are assumed to be part of the without project conditions. Adjustments should be made to account for anticipated plant retirements and changes in plant output due to age or environmental restrictions associated with existing policy and regulations.

(ii) *Existing institutional arrangements.* Existing and reasonably expected future power system and water management contracts, treaties, and nonpower river operating criteria are assumed to be part of the without project condition unless revision of these arrangements is one of the alternative plans being studied. If the latter is the case, that particular arrangement would be one of the alternatives considered in the with project condition.

(iii) *Alternative actions anticipated or underway.* In most power systems, additional generating resources will likely be constructed in the period of study whether or not action is taken on a proposed public project. The without project condition should include these generating resources.

(iv) *Nonstructural measures and conservation.* The without project condition must include the effects of implementing all reasonably expected nonstructural and conservation measures required by or encouraged by Federal, State, and local policies, and by private actions. These effects would generally be reflected in the load projections used to identify the need for additional electric power.

(2) *With project condition.* (i) The with project condition is defined as the most likely condition expected to exist in the future if the best public hydropower project under consideration (among the range of hydropower alternatives available for public implementation) is undertaken. Examples of such alternatives are (A) alternative combinations of projects in a basin study, (B) alternative sites in a reach study, (C) alternative plant sizes at a specific site, (D) alternative reservoir sizes at a reservoir site, (E) use of reregulation and/or pumpback to increase firm capacity, and (F) reallocation of storage to increase firm energy output at existing projects, or nonstructural alternatives.

(ii) At least one primary nonstructural plan shall be included as an alternative wherever structural plans are considered. A wide variety of

nonstructural alternatives to hydropower are possible, including conservation measures to reduce total power demand and load management to reduce peak demand. The nonstructural alternative(s) selected must be appropriate for the type of hydropower project being studied (i.e., with respect to capacity and other factors). Care shall be taken to insure that the proposed structural measures are not already in the process of implementation, and thus a part of the without project condition. Average annual costs for viable nonstructural programs are to be computed, in general, as for hydropower projects. These costs will vary widely from measure to measure and could include factors such as amortized investment costs, annual operations and maintenance (O&M) costs, annual costs of implementing conservation or load management programs (including regulation costs), and identifiable economic costs of adverse effects of the nonstructural measure.

(d) *Evaluation procedure.* (1) *General.* Given one or more alternative plans for public hydropower projects, the following steps are necessary to estimate NED benefits that would accrue to these projects. The level of effort expended on each step depends upon the nature of the proposed development, the state of the art for accurately refining the estimate, and the likely effect of further refinement on project formulation and justification.

(i) *Identify system for anaylsis.* Because of the trend toward interconnection and coordination among utilities and power systems, it is most appropriate to evaluate NED benefits for hydropower on a system basis, rather than on the needs of an individual utility or local area. The size of the system would depend on the situation but could consist of a power pool, a National Electric Reliability Council (NERC) regional area, or the marketing area of the Federal marketing agency. In some cases physical or institutional constraints may limit analysis to a smaller area, but care should be taken to insure that benefits are not misstated by such analysis. OUTPUT: Definition of geographical area for making load-resource analysis.

(ii) *Estimate future demand for electric power.* The estimated demand for electric power will be projected for the system in terms of energy demand, peak demand, and daily load shape. Forecasts of energy demand, including peak demand and daily load shape, should be made taking into account the nonstructural measures for energy conservation that, on the basis of present and future public and private programs, can reasonably be expected to be implemented during the forecast period. Load estimates should be made at increments of no more than ten years from the present to a point at which the proposed hydropower plant will be operating in its mature state; i.e., a state representative of its expected operation over the majority of its project life. In the case of staged hydropower development or systems with markedly changing resource mix, demand projections may be required as much as 20 years beyond the initial operation date. To permit accurate operational studies, typical monthly distributions of power demand must be developed. The load estimates should account for system imports and exports, and should account for reserve requirements, either as a function of demand or as a function of combined system resource reliability. Output: Future estimates of electric power demand for appropriate forecast dates.

(iii) *Define base system generating resources.* Identify the generating resources that would exist in the system without the proposed hydropower project or its alternative. Resource estimates must be made for the same forecast dates specified in Step (ii). Information should be provided on both the average annual energy production and on the peaking capability of these resources. Data are readily available on projected system resources for about ten years into the future. Resource additions beyond that date will have to be based on system studies or judgment. Retirement of older plants should be accounted for, as well as the reduction of output of some plants due to age or environmental constraints. Output: Composition, electric power generating capability, and operating costs of base system at various points in time.

(iv) *Evaluate need for additional generation.* The loads from Step (ii) are compared with the resources from Step (iii) to determine (A) when generating resource deficits will occur, (B) the magnitude of these deficits, and (C) what portion of these deficits could be met by the proposed hydropower project. Some hydropower sites can be developed to provide either a base load, mid-range, or peaking service. The system need for each class of hydropower generation must be evaluated. Simple tabulation of annual peak and energy loads and resources is generally adequate for preliminary studies. However, system load-resource models which account for load characteristics and generating plant operating capabilities are necessary to evaluate accurately the usability of specific projects. Output: Identification of blocks of future power demand which could be carried by hydropower.

(v) *Screen alternatives.* The alternatives to a given hydropower project must be viable in terms of engineering, environmental quality, and other national policy considerations. Engineering viability limits thermal alternatives to commercially available electric powerplants. Environmental viability implies that plant costs must include all equipment required to meet environmental quality criteria. National policy considerations would include factors such as any legal limitations on the use of oil, natural gas, and other "scarce" fuels for electric power generation. Each alternative need not in itself deliver power similar in kind to the hydropower project, but the total power system with the alternative must deliver power similar in kind to the system with the hydropower project. An alternative can be a service of increments to the system from different types of generating plants. In addition, the "similar in kind" requirement is not intended to bias consideration of nonstructural alternatives which may serve to reshape the demand for power.

(vi) *Identify most likely alternative.* Each potentially viable alternative will be examined in system analysis to determine if the system with that alternative can deliver output similar in kind to the system with the hydropower plant, within expected institutional and evironmental constraints. The system with hydropower or other alternatives must be capable of meeting system loads within established system reliability criteria. Alternatives passing this test should be compared on the basis of cost and other factors to determine the mostly likely altenative. Output: Identification of the most likely alternative.

(vii) *Thermal alternative.* Thermal plant annual costs are normally divided into two components: the fixed or "capacity" costs, and the variable or "energy" costs. The capacity costs include amortized investment costs, transmission costs, interim replacement costs, and fixed O&M costs. Energy costs consist primarily of variable O&M costs and fuel costs. Where the most likely alternative is a thermal plant, the thermal plant's capacity costs are used as a measure of the value of the hydropower project's generating capacity, and the thermal plant energy costs are used as the measure of the value of the hydropower project's energy production.

(A) *System energy costs.* Effect on system energy costs must be taken into account when computing the value of hydroelectric energy. This is because the addition of a hydropower plant to a system in lieu of an alternative power source will frequently either increase or decrease the amount of power produced by other generating facilities in the system. This effect can be accounted for by performing a system analysis. The net system energy benefit of a hydropower plant compared to that of a given thermal alternative would be the average annual system energy costs using the thermal alternative minus the average annual system energy cost using the proposed hydropower project. In some cases the resulting hydropower energy benefit could be negative. System energy costs should be considered in determining the most likely thermal alternative.

(B) *System capacity considerations.* *(1)* Because of the difference in physical operating characteristics between hydropower projects and thermal plants, each makes a somewhat different contribution to system operating flexibility and reliability. In developing a benefit value for the dependable capacity of a potential hydropower project, based on the cost of power from an alternative thermal powerplant, these differences must be taken into consideration. Factors to be considered include system reserve requirement, service availability, operating flexibility (quick start capability and fast response to change loads), and other factors.

(2) Consideration of these factors may indicate that a credit to the hydropower project is warranted. In effect, this means that the value of a kilowatt of dependable hydropower capacity is greater than the alternative cost of a kilowatt of thermal capactiy. This credit can be applied as appropriate by increasing the thermal alternative capacity cost by that amount. All prices should reflect the exchange values expected to prevail over the period of analysis.

(3) For this purpose, relative price relationships and the general level of prices prevailing during the planning study will be assumed to hold generally for the future, except where specific studies and considerations indicate otherwise. Examples of the latter could include real fuel cost escalation due to increasing scarcity or increasing capital costs to accommodate expected increased environmental or safety criteria. Fuel costs used in the analysis should reflect real economic prices, rather than regulated prices of existing contracts. Output: Estimation of NED costs of the most likely thermal alternative.

(viii) *Compute hydropower plant annual benefits.* For each alternative hydropower development and installation, average annual benefits are computed based on the costs of the most likely alternative. The benefits thus computed shall be comparable to the hydropower plant costs in terms of interest rate, taxes, insurance, and other NED criteria, as set forth in the Conceptual Basis for Evaluation. In many cases, benefits may vary over the life of a project. This may be due to factors such as staged development of the hydropower project, changes in operation of the hydropower project resulting from changes in the total system generating resource mix, and real escalation in thermal plant fuel costs. Project benefits should be computed at appropriate time intervals and discounted to derive average annual power benefits. Occasionally, a hydropower project is large compared with annual system load growth, and two or more years may be required to fully absorb its output into the load. In these cases credit should be allowed only for the generating capacity and energy actually usable in the load in the early years of project life. Output: Hydropower project average annual benefits.

(ix) *Compute nonstructural plan benefits.* Average annual benefits of the nonstructural alternatives are computed using most likely alternative costs following procedures similar to those used in computing hydropower plant benefits, where it is determined that the alternative cost method directly applies. Where this method does not apply, direct measurement of the NED effects of reduced peak or total power demands is required. Output: Benefits associated with viable nonstructural alternatives.

(x) *Financial feasibility.* Although not a part of the NED benefit analysis *per se,* the Federal power marketing agency must certify that the power from a proposed hydropower project is marketable and that project cost allocated to power can be repaid from revenues in 50 years with interest.

(2) *Problems in application.* Some hydropower projects have little or no apparent dependable capacity, yet they may provide significant amounts of firm and secondary energy. Many potential small hydropower projects and opportunities for adding power to existing nonpower projects fall into this category. Because of the way in which alternative thermal plant costs are divided into energy and capacity values, the benefits credited to these hydropower projects are often greatly underestimated when standard evaluation techniques are used. For these projects, alternative procedures should be used, which (i) account for the project's contribution to system dependable capacity, or (ii) give an appropriate value to the energy if no value is assigned to the project's capacity.

(3) *Analysis of added units.* (i) In evaluating the benefits of added units at an existing hydropower project, two approaches have been used. The units can be isolated and evaluated as an increment, or the benefits can be computed by deducting the total benefits of the existing hydropower plant from the total benefits of the expanded plant. The isolated increment approach usually identifies the least costly means of adding capacity to the system (usually combustion turbine).

(ii) There are, however, questions (A) whether a thermal alternative thus selected can carry the required loads as effectively as the hydropower added units and (B) whether the simplified studies used in identifying the combustion turbine as the least-cost alternative truly reflect average system operating costs. The total without and with project method more accurately credits the added units with the benefits (positive or negative) that accrue to the initial units transfer to a new position in the load.

(iii) The recommended solution is to use (A) the isolated increment approach, where the proposed additional units would be used primarily in the reserve role, and (B) the total project approach, where the added units would be used regularly in the load and, as a result of the expansion, the role of the initial units would change.

(4) *Data sources.* (i) *Load forecasts.* Ten-year regional load forecasts are prepared annually by each of the regional councils in the National Electrical Reliability Council, and these are considered to be standard reference forecasts. Forecasts may also be available from the Federal marketing agencies, State energy agencies, utilities, and regional planning groups, and the hydropower planning agency itself.

(ii) *Existing and planned resources.* Data on existing and planned generating resources are available from annual reports prepared by NERC regional councils. Additional data may be available from Federal Energy Regulatory Commission (FERC) regional offices, State energy agencies, and the utilities. Where specific operating characteristics are not available on individual plants, generalized data can

be obtained rom the Electric Power Research Institute.[1]

(iii) *Load-resources analyses.* Limited 10-year load-resource analyses are prepared annually by the NERC regional councils, and additional load-resource analyses may be available from Federal marketing agencies, State energy agencies, and regional planning groups. However, it may be necessary to utilize load-resource models based on simulated system operation. Such models are available from FERC, Tennessee Valley Authority, and a number of consulting services. In some cases Federal marketing agencies may also have models of this type.

(iv) *Marketability criteria.* Criteria that must be met to insure that power from a proposed hydropower project is marketable and usable in the system load are normally obtained from the Federal marketing agency. Where a marketing agency is not available, the data can be obtained from FERC regional offices or the utilities that would obtain the power from the proposed hydropower project. Criteria for determining dependent capacity can sometimes be obtained from the same sources.

(v) *Structural alternative costs.* FERC regional offices provide annual costs for structural alternatives ("power values") on request. The basic procedures followed by FERC in computing power values are outlined in this publication, "Hydroelectric Power Evaluation."[2] FERC power values have generally only included direct costs on a private financial basis, rather than on an NED basis. To be consistent with Principles and Standards costs, all costs should be recalculated so as to be consistent with Federal project costs as enumerated under the Compute Hydropower Plant Annual Benefits section. Some of these costs are difficult to estimate. One information source is "Energy Alternatives: A Comparative Analysis."[3]

(vi) *Nonstructural costs.* Very little consistent quantitative data are readily available on the costs of nonstructural programs, even though considerable work is underway in this area. These costs would include an accounting for the difference between the energy user's willingness to pay for a reduction in demand and the user's willingness to pay for meeting the demand. Agencies should develop this information in cooperation with the Department of Energy.

(vii) *Pumping costs.* FERC regional offices can provide estimates of pumping costs associated with pumped-storage or pumpback, these data can also be obtained from the system operation study models described previously.

(viii) *Load characteristics.* Data on daily, weekly, and seasonal load patterns can be obtained from the Federal power marketing agencies, the FERC regional offices, and the utilities. Additional generalized regional data can be obtained from the previously cited EPRI report EM-285.

(5) *Risk and uncertainty.* (i) *loads.* With the current uncertainty concerning many facets of the future energy situation, it is difficult to forecast future electric power loads with high confidence. One means of accounting for this uncertainty is to prepare a range of forecasts which would cover various load growth scenarios. The basic feasibility analysis would be based on the most likely forecast, and sensitivity tests would then be made to test the effect of higher or lower loads on economic feasibility. It should be recognized that some flexibility exists to delay or even cancel an authorized hydropower project if load growth subsequent to authorization is lower then projected. The construction and marketing agencies must maintain postauthorization surveillance of the load-resource situation prior to initiation of construction, periodically verifying whether or not the project continues to be needed and is economically feasible.

(ii) *Hydropower plant performance.* (A) A number of factors can reduce the actual output of a hydropower project below that which is expected. Inadequate hydrologic data may indicate that projected average energy output is either higher or lower than the actual long-term average. Synthetic hydrology or correlation analysis may be required to establish a reliable basis for estimating energy output. Irrigation depletions or other diversions may reduce energy output. The possibility of such diversions should be considered in the analysis, and sensitivity tests should be made, if necessary, to evaluate alternative diversion levels. Sedimentation may reduce the usable storage space in reservoirs, thus reducing firm energy output, both at-site and at downstream projects. Sedimentation studies should be made to account for possible storage losses.

(B) More stringent operating limits for environmental or nonpower river uses may be established once a project is in operation, thus limiting dependable capacity, energy output, or both. Every effort should be made to avoid this problem by carefully coordinating proposed power operating procedures with agencies and interest groups responsible for nonpower river uses and environmental concerns. Simulated hourly and seasonal project operating studies are useful in identifying and displaying possible operating conflicts. However, continuously changing priorities and changing demands on water resources make it impossible to foresee all possible operating conflicts.

(iii) *Thermal plant performance.* More stringent environmental and/or safety criteria may result in increased unit costs of alternative thermal plant output, thus increasing hydropower project economic benefits.

(iv) *Technological breakthroughs.* Technological breakthroughs may result in the development of more economic thermal alternatives, thus reducing the value of a hydropower project. The likelihood of any significantly new generation type being developed and made available for full-scale commercial operation is remote within the normal planning period, but this possibility should be considered throughout the planning process. The possibility that more cost-effective, nonstructural measures can be developed and implemented in the planning period also should be considered.

(v) *Changing load shapes.* Special care should be taken in the process of evaluating low plant factor hydropower alternatives to determine whether peak pricing or other load management measures are likely to reduce or eliminate the need for the project. While conservation measures might only defer the need for additional energy-generating facilities in the planning period, load management could greatly reduce the need for low plant factor peaking generation.

§ 704.127 Transportation (inland navigation).

(a) *Introduction.* This chapter presents the procedure to be followed in measuring the beneficial contributions to national economic development (NED) associated with the inland navigation features of water resources development projects. Thus, this procedure is the way in which the navigation subcomponent of the NED account of the Principles and Standards (P&S) is to be quantified.

[1] Electric Power Research Institute. "Synthetic Electric Utility Systems for Evaluating Advanced Technologies." EPRI report EM-285, February 1977.

[2] Federal Energy Regulatory Commission. "Hydroelectric Power Evaluation." FERC report P-35, revised 1978.

[3] University of Oklahoma, Science and Public Policy Program. "Energy Alternatives: A Comparative Analysis." Prepared for the Federal Council on Environmental Quality, *et al.*

(b) *Conceptual basis.* The basic economic benefit of a navigation project is the reduction in the value of resources required to transport commodities. Navigation benefits can be categorized as follows:

(1) *Cost reduction benefit (same origin-destination; same mode).* For traffic which uses a waterway both with and without a project, the benefit is the reduction in the cost of using the waterway. This reduction represents an economic efficiency (NED) gain because resources will be released for productive use elsewhere in the economy, for example:

(i) Reductions in costs incurred from trip delays; (e.g., reduced congestion by expanding lock sizes at congested facilities or by congestion fees).

(ii) Reduction in costs because larger or longer tows can use the waterway (e.g., by channel straightening or widening).

(iii) Reduction in costs by permitting barges to be more fully loaded (e.g., by channel deepening).

(2) *Shift of mode benefit (same origin-destination; different mode).* For traffic which would use a waterway with the project, but without the project uses a different mode, the benefit is the difference between the costs of using the alternative mode without the project and the costs of using the waterway with the project. The economic benefit of the waterway to the national economy is the savings in resources from not having to use the next most costly mode. Specifically, the national economic benefit for the Federal waterway investment is the cost for using the alternative mode less all associated costs for the barge and related operations, except for the cost of the Federal investment itself. The word "mode" as used herein must be construed broadly; e.g., including where a different waterway is used with and without the project.

(3) *Shift of origin-destination benefit (different mode; different origin-destination).* When there is a shift in either the origin or destination of a commodity flow the difference in transportation costs with and without the project is not the appropriate measure of benefits. If implementation of a project would result in a shift in the origin of a commodity the benefit is taken as the difference in total cost of obtaining a commodity at its place of use with and without the project. If implementation of a project would result in a shift in the destination of a commodity the benefit is taken as the difference in net revenue to the producer with and without the project. The shift of origin-destination benefit cannot normally exceed the difference in transportation charges assuming the without project origin-destination would be the same as the with project origin-destination.

(4) *New movement benefit.* In this case a commodity or additional quantities of a commodity would be transported only because of the lowered transportation charge with the project. The quantities are limited to increases in production and consumption resulting from lower transportation costs. An increase in waterways shipments resulting from a shift in origin or destination is not included. The new movement benefit is defined as the increase in producer and consumer surplus. Practically, it can be measured as the delivered price of the commodity less all associated economic costs, including all of the costs of barge transportation other than those of the proposed Federal improvement. This benefit, like the preceding one, cannot exceed the reduction in transportation costs achieved by the project.

(c) *Planning setting.* (1) *Without project condition.* The without project condition is defined as the most likely condition expected to exist in the future in the absence of a project and any change in law or public policy. The following specific assumptions are to be built into the projected without condition:

(i) All nonstructural practices within the discretion of the operating agency will be assumed to be implemented at the appropriate time in the without project condition. Such practices include helper boats and lock operating policies. Substantial analysis is required to establish the best combination of nonstructural measures to most effectively utilize the existing waterway system over time. This analysis will be documented in project reports so as to assure the reviewer that the best use of existing facilities will be made in the without project condition and that the benefits of alternative with project conditions are correctly stated. The criteria for the best utilization of the system is the overall public interest, including but not limited to: safety, environmental impact, economic efficiency, and acceptability.

(ii) User charges and/or taxes provided for by law are part of the without condition. Proposed, or possible, fees, charges, or taxes are not part of the without condition.

(iii) The without project condition will assume that normal operation and maintenance will be performed on the waterway system over the period of analysis.

(iv) In projecting traffic movements on alternative modes, the without project condition will normally assume that the alternative modes have infinite capacity to move traffic at current costs.

(v) The without project conditions normally will assume that only waterway investments which are currently in place or under construction are in place over the period of analysis.

(2) *With project condition.* The with project condition is defined as the most likely condition expected to exist in the future if the project is undertaken. Since there are many alternatives, there are many "with project" conditions. The same assumptions underlie the with project condition that underlie the without project condition; however, the fifth assumption may be modified, as discussed below (item 6). The following discussion relates to the alternatives to be considered under the with project condition.

(i) Demand management by the use of congestion or lockage fees is a nonstructural alternative, which singly or in combination with structural devices may serve to produce an economic optimum in a congested waterway. A congestion fee can be used to incorporate into the shippers' cost and rate structure the costs of increased waiting time that each individual shipper imposes on other shippers when the waterway is congested. Waterway users consider their private costs but not costs they impose on other users. In congested situations an inefficiency may thus develop from a social cost perspective. By eliminating marginal waterway users through a congestion fee, the net benefits of a waterway can be increased. The demand reduction (nonstructural) alternatives should be evaluated in light of the full range of P&S evaluation criteria, on an equal basis with supply increasing (structural) alternatives.

(ii) Additional nonstructural measures not within the current purview of the operating agency will be considered as "supply management" measures. One example is traffic management. These supply increasing (nonstructural) alternatives, like demand reducing (nonstructural) alternatives, should be evaluated.

(iii) Another important class of alternatives is a combination of the nonstructural and structural measures.

(iv) Project alternatives can differ in their timing as well as in their physical characteristics. The optimal timing of projects and of individual project

features should be considered in project formulation.

(v) Improvements in railroad, highway, pipeline, or other modes will not be analyzed as alternatives to improvement of the waterway. Of course, a comparison of the costs of moving traffic by alternative modes under current cost conditions is inherent in the NED benefit analysis required by this manual.

(vi) The inclusion of a currently authorized change in the waterway system not yet under construction is proper so long as an appropriate share of such associated costs is included in the costs of the alternative under study.

(d) *Evaluation prodecure.* (1) *General.* The following 10 steps are necessary to estimate navigation benefits. The level of effort expended on each step depends upon the nature of the proposed improvement, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification to further refinement.

(i) *Identify the commodity types.* The commodity types susceptible to movement on the waterway will be identified. The level of detail for each commodity will not be prespecified in this manual; e.g., in some cases, "grains" is detailed enough, while in others "corn," "wheat" and "soybeans" are needed. Output: List of commodity types which may use the waterway segment under consideration for improvement.

(A) *New waterways.* Commodity types are identified primarily by shipper interviews and by resource studies. The former identify primarily shift of mode benefit potentials; the latter identify primarily shift in origin-destination and new movement potentials.

(B) *Existing waterways.* Commodity types are identified primarily by analysis of data on existing use of the waterway segment under study; e.g., data from the Performance Monitoring System (PMS) and the Waterborne Commerce Statistical Center (WCSC).

(ii) *Identify the study area.* The study area is the area within which significant project impacts are incurred. The origins and destinations of products likely to use the waterway are normally included in the study area. Output: Delineation of waterway study area by river segments.

(A) *New waterways.* The origins and destinations are determined primarily by shipper interviews and resource studies.

(B) *Existing waterways.* The origins and destinations are determined by analysis of data on existing use of the waterway segment under study; e.g., PMS and WCSC traffic traced to its ultimate origin and destination.

(iii) *Determine current commodity flow.* Data will be gathered for commodities in the study area susceptible to waterway movement as well as for those currently transported by waterway. The word current means at the time of the study. The word "flow" means tonnage. Output: An array of current tonnage by commodity type (step 1) and origin and destination (step 2) which either move by the existing waterway or are susceptible to waterway movement.

(A) *New waterways.* This step seeks to identify the total tonnage that could benefit from using the waterway. This information will be obtained primarily by shipper interviews. For shift in origin and destination and new movement benefits, care must be taken to identify whether such movements would likely occur if waterway transportation were available, based primarily upon interviews. Particular attention should be given to delivered price from substitute sources in the case of benefits, and to resource and market analyses in the case of new movement benefits. Current transportation costs in the area should be carefully assessed in all cases.

(B) *Existing waterways.* This step seeks to identify more than the existing "use" of the waterway. It seeks to identify any potential commodities that might utilize the waterway in response to a reduced transportation charge.

(iv) *Determine current cost of alternative movement.* This determination will be made for all the tonnages identified in the prior step. The alternative cost must include the full origin to destination costs, including handling, transfer, demurrage, and prior and subsequent hauls. The effect of seasonality on costs will be considered in this step. In calculating the cost of prior and subsequent hauls, care must be taken to avoid inappropriate aggregations and averaging of the costs of the movements where there is a wise geographic dispersion in ultimate origins and/or destinations, as in the case of grain traffic. This procedure requires use of price data wherever available as a proxy for long-run costs of movement by alternative modes. This step, combined with step 3, generates a first approximation of a demand schedule for waterway transportation given the cost of transportation by alternative modes, current levels of production, and the distribution of economic activity. Output: An array of the alternate cost of transportation for the output of step 3 above, and in combination with step 3, a first approximation of a demand schedule for waterway transportation.

(A) *New waterways.* In the case of rail, use the prevailing (existing) rate actually charged for moving the traffic to be diverted. For traffic induced by the waterway, the rail rate must be constructed as in step 4b.

(B) *Existing waterways.* Use rate and other price data wherever possible in estimating the cost of movement by alternative modes. In the case of rail movements, use prevailing rates which *(1)* are "competitive," and *(2)* are for movements that are "similar" to the individual move that would occur without the project if the rate for that move is not now used. The use of paper rates, i.e., rates at which no significant amount of traffic is actually moved, will be avoided. A rate is "competitive" to the extent that it is for traffic for which there is intramodal or intermodal competition within the relevant markets. In identifying a "similar" movement, the factors considered may include its geographic location, its degree of use, the characteristics of terrain, backhaul, contract division, seasonality, ownership of rolling stock, and physical rail connection to the shipper. It is the responsibility of the analyst to select rates which, in his view, best represent the long-run marginal costs of the movement. The use of cost estimates for particular moves may be useful in selecting the rate or rates which best meet the criteria of competitiveness and similarity. Where more than one similar and competitive rate is identified, an average may be used.

(v) *Forecast potential waterway traffic by commodity.* (A) This is a projection of the potential use of the waterway under study. Projections will be developed for selected years from the time of the study until the end of the project life, over time intervals not to exceed 10 years. Commodity projections will be set forth and documented for all commodity groups identified in step i and for the commodity flows identified in step iii.

(B) The level of effort expended will depend upon the nature of the proposed improvement, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification for further refinement. Output: A list of potential waterway movements over the life of the project.

(1) Traffic base. This will consist of the waterway traffic share of commodity flows identified in the study area as delineated in step iii.

(2) Commodity forecasts. (i) The normal procedure for constructing commodity projections is to relate the traffic base to some type of index over time. These indices can be constructed

by many different methods, depending on the scope and complexity of the issue under consideration and the availability of data and previous studies. Generally, OBERS projections are considered to be the demographic framework under which commodity projections will be made, but direct utilization as an index is not always appropriate. For some types of commodity groups, particularly those forming a small portion of the traffic base, indices constructed on the basis of OBERS projections are considered adequate, because these projections are of relatively minor importance within the framework of the total traffic projection. Refinements in such estimates add little to project formulation or justification.

(*ii*) There are many instances, however, where a direct application of OBERS derived indices is clearly inappropriate. Frequently, circumstances are present which distort the relationship between waterway flows and the economy described by OBERS. Even where total commodity flows can be adequately described through the use of indices derived from OBERS, factors such as increasing environmental concerns (e.g., those regarding use and source of coal), changes in international relations and trade (e.g., export grain) and resource depletion (e.g., minerals), as well as other factors, may seriously transform the relationship between waterway commodity flows and the economy described in OBERS. Where problems of these types can be identified, the analyst will undertake independent studies to ascertain the most appropriate method of projecting commodity flows.

(*iii*) The assessment of available secondary data will form the basis of these independent studies. These data will assist in delineating the bounds on the rate of increase for waterway traffic, as well as facilitate a better understanding of the problem. They will be supplemented with interviews of relevant shippers, carriers, and port officials, the opinions of commodity consultants and experts; and historical flow patterns. Commodity projections can then be constructed on the basis of the results of the independent studies.

(*iv*) Generally, specific commodity studies are of limited value for projections beyond (approximately) 20 years in the future. Given this limitation, it is preferable to extend the traffic projections to the end of project life through the use of some types of general indices on a regional and industry basis. Such indices can be constructed from the OBERS projections.

(*v*) In summary, where commodity groups are sufficiently important to project formulation and evaluation, specific studies on these commodity groups should be undertaken. Since reliable information for specific commodity groups is rarely available for the period beyond (approximately) 20 years from the time of the study, commodity projections will be extended through the end of project life by use of commodity indices constructed from OBERS or other generally accepted multi-industry and regional models. Less critical commodity groups should be projected over the life of the project using OBERS derived indices or other accepted models. Where the model does not contain projections through the end of project life, the projections will be extended using professionally accepted methods.

(vi) *Determine future cost of alternative modes.* (A) Projected cost per unit of each commodity will normally be the same as current cost. As stated in *part 3.a.(4)*, the without condition will normally assume that the alternative modes have infinite capacity to move traffic at current costs. This step combined with step v provides a time series of demand schedules specific to a particular commodity O–D pattern. The projection of any change in future prices is subject to the caveats in the "General Discussion," and must be addressed as indicated below.

(B) A future rate must be a prevailing rate as defined in step (iv). It should reflect exclusively a shift in rates because of projected changes in the volume of shipments on a given mode or a shift from one mode to another (e.g., rail to pipeline). To support such a shift the analyst should show that the increase in volume will likely lead to a change in rate; for example, a change in volume of a commodity from one area to another does not insure sufficient point to point volume for a volume rate. Output: One or more arrays of cost per unit for movement by alternative modes over time for the commodities in step v.

(vii) *Determine current costs of waterway use.* The waterway transportation cost must include the full origin-to-destination costs including handling, transfer, demurrage, and prior and subsequent hauls for the tonnages identified in step 3. The effect of seasonality on costs will be considered in this step. In calculating the cost of prior and subsequent hauls, care must be taken to avoid inappropriate aggregations and averaging of the costs of the movements where there is a wide geographic dispersion in ultimate origins and/or destinations as in the case of grain traffic. The barge cost is the rate charged for moving the commodity by barge. Output: An array of current waterway costs associated with the commodities in step iii.

(A) *New waterways.* The current cost of waterway use represents the with project condition; there are no without project costs for waterway transportation.

(B) *Existing waterways.* Two arrays, one representing the without and one the with project condition, must be constructed. The difference between the two arrays reflects the reduction in current delays and any gains in efficiencies resulting from the alternative under consideration.

(viii) *Determine future costs of waterway use.* Two separate analyses are required for this step. First, the possibility of changes in the costs of the waterway mode for future years for individual origin-destination commodity combinations will be considered. The comments for step 6 apply generally. Second, the relationship between waterway traffic volume and system delay will be analyzed. This analysis must be in the context of the total volume of traffic on the waterway segments being studied for with and without project conditions. This analysis will generate data on the relationship between total traffic volume and delay patterns for different origin-destination patterns. Because delay patterns are functions of the mix of traffic on the waterway, this analysis may be undertaken iteratively in conjunction with step 9 to produce a "best estimate." Output: Arrays of waterway costs for movements overtime for the commodities in step (V) are subdivided into two categories: (A) individual costs (excluding increases in delay over current delays) and (B) system delay functions.

(ix) *Determine waterway use, with and without project.* At this point the analyst will have a list of commodities which potentially might use the waterway; the tonnages associated with each; the costs of using alternate modes and the waterway, including system delay functions with and without the project over time. This information will be used to project waterway use over time both with and without the project. Output: Waterway use over time, with and without the project. This is based upon:

(A) A comparison of costs for movements by the waterway and by the alternative mode, as modified by (B) below.

(B) Any changes in the cost junctions and demand schedules comparing (*1*)

the current and future without condition and (2) the current and future with condition. Conceptually, this step should include all factors which might influence a demand schedule; e.g., impact of uncertainty in the use of the waterway; ownership of barges and special equipment; level of service; inventory and projection processes; and the like. As a practical matter, the actual use of a waterway without a cost savings or nonuse of a waterway with a cost savings depends upon knowledgeable judgment of navigation economists and industry experts.

(C) The "phasing in" or "out" of shifts from one mode to another should be accounted for in the analysis. Diversion of traffic from other modes to the waterway, as well as from the waterway to other modes as it becomes congested, will be based upon expected rate savings, as adjusted by any other factors affecting the willingness of users to pay or affecting the speed of the response mechanism to changes in the relative attractiveness of alternative modes. Specifically, in analyzing diversions from congested waterways, traffic diversions will be in order of the willingness of users to pay for waterway transportation. Those users with the lowest willingness to pay will be diverted first.

(x) *Compute annual benefits and discount.* Once the tonnage moving with and without a plan is known and the alternative costs and waterway costs are known, benefits can be computed using the applicable discount rate under section 80 of the Water Resources Development Act of 1974. Output: Total NED navigation benefits:

(A) For cost reduction benefits, the benefit is the reduction in cost of using or operating the waterway; the cost of the alternative mode was a factor in determining whether the tonnage would move both with and without the project, but is not a factor in computing benefits.

(B) For shift of mode benefits, the benefit is the reduction in costs comparing the alternative mode with the waterway.

(C) For shift of origin-destination benefits and new movement benefit, the benefit is the value of the delivered product less the transportation and production costs with the project. The transportation cost without the project (assuming the with project movement would have occurred) is a factor in categorizing these benefits and is normally an upper limit on the benefit, but it is not a factor in computing these benefits.

(2) *Problems in application.* (i) *Rate savings.* The ability to accurately compute the long-run marginal costs of particular rail movements on the basis of cost estimation studies is presently less than the ability to determine rates at which railroad traffic actually moves. In competitive markets, rates (prices) correspond to marginal costs, and, given market stability, prices will settle at long-run marginal costs. Moreover, it is the rates actually charged that determine the distribution of traffic among modes. Because of this, rates will be used to measure shift of mode benefits. Section 7a of the DOT Act of 1966 requires the use of prevailing rates, as defined in step 4 under "General Discussion." In the case of new waterways, this rate may or may not represent the best estimate of long-run marginal costs. In the case of existing waterways, prevailing competitive rates are the best available approximation of long-run marginal costs.

(ii) *Changes in system delays.* Differences in system delays resulting from project alternatives are difficult to compute. An assessment of system delays within the state of the analytic art is necessary for a comprehensive benefit analysis. It is necessary to rigorously analyze delays at all points in the system only to the extent that project formulation and justification are sensitive to such refinements, and to the extent that the state of the art permits accurate refinement of the estimate. Appropriate proxy measures may be used in lieu of individual assessments at each element in the system when evaluating system delays.

(iii) *Interaction of supply and demand schedules.* The entire procedure in the "General Discussion" is premised on an assumption that the supply and demand schedules are independent. In fact they are not. This problem is most acute when the variance in delays at high levels of lock utilization is considered. Essentially, shippers will not face an expected delay value but rather a highly uncertain delay value. Shippers' response to uncertainty (as reflected in the demand schedule) may be quite different than their response to an expected shipping cost (as reflected by the intersect of the supply and demand schedules). No further guidance on this problem is provided at this time beyond that in step 9b of the "General Discussion".

(iv) *Sensitivity analysis.* Project benefits are calculated on the basis of "the most probable" with and without project conditions. However, risk and uncertainty need to be addressed in the analysis of NED benefits and costs. For instance, major uncertainty exists in the proper measure of savings to shippers, namely difference in long-run marginal costs. In dealing with uncertainty, three techniques may be used; namely, establishing consistent sources of data, expanding the data gathering effort, and bracketing the range of benefits. The following two specific approaches will be used to implement the third technique, and the results in terms of their effects on project benefits will be displayed in tabular form in the project report.

(A) *Prespecified sensitivity analysis.* The following must be computed and included in the report:

(1) Current tonnage, new waterway.—For new waterways, benefits for the recommended alternative will be computed based upon current phased-in tonnage (steps 3 and 9c), current rates, and current fleet characteristics.

(2) Current rates, fleet.—For both new and existing waterways, benefits for the recommended alternative will be computed based upon tonnage over time, current rates (step iii), and current fleet characteristics.

(3) Growth beyond 20-year period.—The benefits for all alternatives carried to the system of accounts will be computed assuming no growth in tonnage, or changes in fleet characteristics or costs beyond 20 years in the future.

(4) Interest rate.—For projects whose interest rate is grandfathered under Section 80 of the 1974 Water Resources Development Act, average annual benefits will be computed using the current discount rate as defined by Section 80.

(5) User charges.—The effect of two alternative levels of user charges on project benefits will be investigated. Average annual benefits will be computed assuming that user charges which recover (1) 50 percent of and (2) 100 percent of the average annual costs of the waterway under study are in effect.

(B) *Other.* In addition the report will contain such other sensitivity analyses as are necessary to meet the objective of a clear, concise report that presents a range of benefit levels that represent data and assumptions about which reasonable persons might differ.

(3) *Data sources.* The data sources were discussed previously. This section provides instruction on the use of one key source, the interview questionnaire.

(i) *Interview.* Interview data can be used in each of the steps 1 through 9 of the "General Discussion". (Only OMB approved forms should be used.) Data should be collected by personal interviews if not available from secondary sources. Statistically sound

techniques for selecting the interview sample and for devising the questions will be used. The questionnaire and a summary of responses will be compiled and displayed in the final report in such a way as to prevent individual disclosures.

(ii) *Other.* The basic organizational source for systematically collected waterway data is the Systems Analysis Branch, Planning Division, Office of the Chief of Engineers. This Branch can direct analysts to data available from other sources.

(e) *Report and display procedures.* Clear presentation of study results, as well as documentation of key input data assumptions and steps in the analysis, facilitates review of the report. Tables 7–10 are suggested presentations for all reports that include navigation objectives. (See also paragraphs (c)(1)(A), (d)(2)(iv), and (d)(3)(i) for additional reporting and display requirements.) The summary tables show that data can be presented which not only detail the national economic development benefits of a project, but also provide useful information on other aspects of the project such as its impact on physical commodity flows, on other modes of transportation, and on the location of economic activity.

Table 7.—*Summary of Average Annual NED Benefits and Costs for Alternative Projects*

[Thousands of October 1979 Dollars]

Applicable Discount Rate: ——

	Alternatives			
	1	2	3	N
Navigation benefits:				
Cost reduction benefits.				
Shift of mode benefits.				
Shift in O–D benefits.				
New movement benefits.				
Total navigation benefits.				
Other purpose benefits (list).				
Total project benefits.				
Project costs				
Net benefits				

Table 8.—*Time Phasing of NED Benefits for Recommended Project*[3]

[Thousands of October 1979 Dollars]

Applicable Discount Rate: ——

	Time period						
	Base years (specify)	Decade[1]					
		1	2	3	4	5	AAE[2]
Navigation benefits							
A. Cost reduction benefit							
1. Traffic volume (10^3 tons/year)							
2. Benefits							
B. Shift of mode benefit							
1. Traffic volume (10^3 tons/year)							
2. Benefits							
C. Shift in O–D benefit							
1. Traffic volume (10^3 tons/year)							
2. Benefits							
D. 1. Traffic volume (10^3 tons/year)							
2. Benefits							
E. Total navigation benefits							
Other purpose benefits							
Total project benefits							

[1] Value for last year of decade.
[2] Average annual equivalent.
[3] Comparable table for all detailed alternatives in the System of Accounts.

Table 9.—*Waterway Traffic and Delays, Without Project Condition*

	Current	Base Year	Decade[1]					
			1	2	3	4	5	AAE[2]
A. Waterway traffic (10^3 tons/year)								
(By major commodity group)								
B. Delays (minutes/tow):								
Study site								
Critical constraints								
Total system								
C. Delays ($/ton)								
Study site								
Critical constraints								
Total system								

[1] Value for last year of decade.
[2] Average annual equivalent.

Table 10.—*Waterway Traffic and Delays with Recommended Project*[3]

	Time period						
	Base year	Decade[1]					
		1	2	3	4	5	AAE[2]
A. Waterway traffic (10^3 tons/year)							
(By major commodity group)							
B. Delays (minutes/tow):							
Study site							
Critical constraints							
Total system							
C. Delays ($/ton)							
Study site							
Critical constraints							
Total system							

[1] Value for last year of decade.
[2] Average annual equivalent.
[3] Comparable table for all detailed alternatives in the system of Accounts.

§ 704.128 Transportation (deep water ports) [Reseved].

§ 704.129 Recreation.

(a) *Purpose and Scope.* (1) This chapter outlines the concepts, methods, and procedures for valuation of the beneficial and adverse effects of water project recreation on national economic development. Its purpose is to provide Federal agencies engaged in water and related land use planning with acceptable recreation benefit valuation methods and criteria, together with procedures for implementation of these methods on a consistent basis.

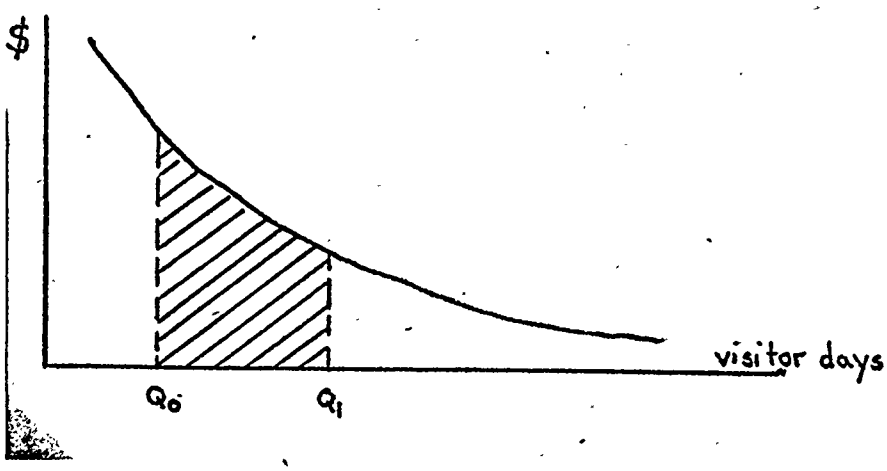
(2) Outdoor recreational activities include water-dependent activities such as swimming, boating, water-skiing, and fishing, and water-enhanced activities such as camping, hiking, picnicking, hunting, birdwatching, photography, sightseeing, and other activities. A portion of these public recreational demands are satisfied by the existence and development of Federal lands and waters through multiple-purpose water development projects that include specific provisions for enhancing recreation activities consistent with the requirements of the Federal Water Project Recreation Act of 1965 (Public Law 89-72). This act provides that full consideration shall be given to the opportunities which multiple-purpose and other Federal water projects afford for outdoor recreation and for associated fish and wildlife enhancement.

(3) The various valuation methods are presented in the form of a conceptual framwork that requires the Federal agencies to develop their own detailed procedures for implementation. Because the size, location, market, and design of each project will vary, the agencies are expected to select from the methods approved herein the appropriate detailed procedures for their operating situations.

(b) *Objective.* This chapter is designed to insure that recreation benefits of proposed projects are estimated accurately, consistently, and in compliance with the Principles and Standards. The objective is the ultimate adoption by Federal agencies of newer and more acceptable methods.

(c) *Conceptual Basis.* (1) Benefits arising from recreation opportunities created by a project are measured in terms of willingness to pay for each increment of output provided. Willingness to pay includes entry and use fees actually paid for site use plus any unpaid value (surplus) enjoyed by consumers. It is not appropriate to include payment for equipment, food, transportation, or lodging that may be involved with recreation activity, since these payments are not specifically for site use.

(2) Willingness to pay over a range of consumption levels is represented by a demand curve. Factors affecting the location and steepness of the demand curve include availability and cost of alternative opportunities, characteristics of project recreation facilities, and user population location, income, and other socioeconomic characteristics. In the diagram, curve DD represents the incremental willingness to pay for recreation in a given region, Q_0 is the without project supply of recreation opportunities, and Q_1 is the with project supply. By summing the willingness to pay for each additional unit provided, the total willingness to pay can be represented as the area under the demand curve between the old and new supply. Because most recreation is publicly provided, it is usually not possible to estimate demand directly from observed price-consumption data. This manual describes accepted methods for approximating demand by means of surveys, travel behavior, and other quantifiable measures.



(3) Many proposed projects subject to NED benefit/cost analysis involve both recreation gains and recreation losses. For example, reservoir-related recreation may be provided while stream and associated terrestrial recreation may be lost. Net recreation benefits are defined as the value of the gains minus the value of the losses, and they may be positive or negative. If gains are valued as the aggregate amount that users are willing to pay (WTP) to enjoy the recreational gain, then losses should be valued as the aggregate of the minimum amount users would be willing to accept (WTA) to voluntarily accept the loss. Although logically correct, adequate methods of empirically estimating WTA values are not available. Therefore, WTP measures should be used to value both gains and losses of recreation associated with proposed projects.

(d) *Planning Setting.* (1) Changes in recreational use and value brought about by plan alternatives must be determined through the analysis of without project and with project conditions in planning areas over the prescribed period of economic analysis.

(2) The without project condition is defined as the pattern of recreational activity that would prevail in the absence of a Federal water project. Determining the economic value of the without project condition requires analysis of existing and probable recreational usage within potential project sites over the prescribed period of economic analysis. Recreation in the without project condition includes that which would be provided both formally and casually through both public and private means, including the de facto utilization of privately owned or controlled resources. The with project condition is defined as the pattern of recreation activity that is expected to prevail over the prescribed period of analysis with a Federal project in place. Analysis of the with project condition requires consideration of additional recreation opportunities, which constitute both separable and nonseparable aspects of project development, and existing recreation activity in the project site, which is diminished in quality or quantity due to project development and operation.

(3) The identification and evaluation of with and without project conditions is part of the broader planning context and presumes the proper consideration of other substantive planning aspects in response to the *Principles and Standards,* specific statutory requirements, or agency policies. Many of these considerations have an

important bearing on the formulation of water resource plans, and thus have a direct influence on the valuation of recreation benefits and costs. Among these planning steps are (i) identification of recreation demands, (ii) establishment of planning objectives, (iii) inventory and appraisal of recreation resource capabilities and potentials, (iv) development and assessment of alternative plans, (v) evaluation of plan alternatives against stated planning objectives, and (vi) choice of the evaluation methodology.

(e) *Valuation Methods and Procedures.* (1) *Introduction.* (i)An overriding criterion governing the acceptability of valuation methods is that they be capable of measuring or reflecting the beneficial and adverse effects of recreation from water resource projects on national economic development. They must be based on sound economic rationale and possess an empirical basis which permits an objective and reproducible analysis of benefits and costs.

(ii) An acceptable valuation method has the following characteristics:

(A) Valuation is based on an empirical estimate of demand applied to the particular project.

(B) Demand estimates must reflect socioeconomic characteristics of market area populations, qualitative characteristics of recreation resources under study, and characteristics of alternative existing recreation opportunities.

(C) Valuation accounts for value of losses or gains to existing sites in area of influence (without project condition).

(D) Willingness to pay over time is based on projected changes in underlying determinants of demand.

(iii) Numerous valuation methods have been examined and assessed by the Water Resources Council in the preparation of this manual. While many of them generally adhere to the above criteria, they vary widely in basic approach, procedures, and results. The three methods discussed below are the travel cost method (TCM), the contingent valuation (or survey) method (CVM), and the unit-day value (UDV) method. The TCM utilizes the observed travel behavior of users together with the variable costs of travel to determine user willingness to pay, i.e., to derive a demand curve. CVM's obtain direct estimates of willingness to pay from samples of users. Experience indicates that the TCM and CVM methods can yield estimates of value with an accuracy equal to that of other project outputs.

(2) *Travel Cost Method (TCM).* The basic premise of the travel cost method is that per capita use of a recreation site will decrease as the out-of-pocket and time costs of traveling from place of origin to the site increase, other things remaining equal. The method consists of deriving a demand curve for a recreation site by using the variable costs of travel and the value of time as proxies for price. Using data collected from users of existing sites, the travel cost method premits development of (i) estimated use of the proposed site, (ii) a per capita demand function for recreation at the site, and (iii) an estimate of the NED recreation benefits of the site. The travel cost procedure consists of two steps: (A) estimating use, and (B) deriving a demand curve.

(i) *Estimating Use in the Travel Cost Method.* (A) *Use Estimating Models.* *(1)* The preferred method of estimating use is with a use estimating model (UEM) that relates use at a proposed site to distance traveled, socioeconomic factors, and charateristics of the site and alternative recreation opportunities. Use estimating models are based on data gathered at an existing site or cross section of existing sites with the resultant statistical coefficients used to estimate use at a proposed site. Factors that influence demand for recreation, such as characteristics of user populations and availability of alternative opportunities, are explicitly taken into account by variable in the model. A simpfilied UEM is shown below:

$$Y_{ij}=B_0+B_1D_{ij}+B_2E_i+B_3S_{ij}+B_4Q_j$$

where

Y_{ij} is per capita visits to site j from origin i.

D_{ij} is distance from i to j.

E_i is a vector of demographic and socioeconomic variables for origin area i.

S_{ij} is a measure of recreation opportunities available to the population of i as alternatives to site j.

Q_j is a vector of variables measuring recreation quality at site j.

B_0, B_1, etc., the estimated coefficients, are used to predict use at a proposed site by calculating use from each area of origin and aggregating to get total estimated annual use.

(2) Application of an existing UEM to a proposed site involves the following: *(i)* delimit the areas of origin for the proposed project (use of counties or parts of counties as origin areas facilities gathering of data in subsequent steps); *(ii)* compute measures of the explanatory variables in the use equation for each origin area and for each year an estimate is required; *(iii)* calculate use from each area for each year; and *(iv)* aggregate use from each area to get estimated annual use.

(B) *Similar Project Use Estimation.* *(1)* The similar project procedure is based on the concept that recreation demand for a proposed project can be estimated from observations of visitation patterns at one or more existing projects that has similar resource, operation, and anticipated recreation-use characteristics. The procedure involves the graphic or statistical matching of recreation site planning alternatives under study with water resource projects and recreation resource areas for which use statistics and other information are known. The objective of the similar project procedure is to obtain as close a match as possible with respect to type, size, and quality of project; market area demographic and socioeconomic characteristics; the existence and location of competing recreation opportunities; and other demand influencing variables.

(2) The most efficient and technically sound similar project procedure is based on per capita use curves (i.e., regression curves relating per capita rate of use to travel distance) from which use estimates are derived. Per capita use curves have been estimated for 52 existing reservoirs.[1] An overview of the methodology adapted from Brown et al. is provided below.

(3) Briefly stated, use of the similar project prediction method is comprised of the following steps:

(i) Evaluate the characteristics of a proposed project or other area under study.

(ii) Select a similar project or area by comparing characteristics of the proposed project with available information for existing sites. This includes evaluation and comparison of the respective recreation market areas.

(iii) Modify the per capita use curve to reflect the dissimilarities between the similar project and the proposed project.

(iv) Determine the county populations within the market area for the year in question, and derive per capita use rates for each county population by measuring road-mile distance from the project to the center of the most populated city within the county (proxy for centroid of county population).

(v) Sum the contribution from each county per capita rate times county population.

(vi) Determine the percentage of total use that the foregoing estimate represents—if 100 percent, use as is; if less, adjust accordingly.

[1] Brown, R. et al., *Plan Formulation and Evaluation Studies: Recreation*, Vol. II, U.S. Army Engineer Institute for Water Research, 1974.

(4) A critical shortcoming of this similar project method is the subjectivity inherent in the manual adjustment of the per capita use curve which is required in order to account for demand factors other than travel distance.

The reliability of the method can, of course, be enhanced through experience. However, it cannot be expected to approach the reliability of the more sophisticated statistical models.

(ii) *Deriving Demand in the Travel Cost Method.* (A) The travel cost method is based on the correspondence between increasing the distance from areas of origin to the site and increasing the cost or price of recreation at the site. The second step of the procedure consists of calculating total use at different incremental distances (prices). It is based directly on use estimator models or per capita use curves. The result is a demand curve for the site being evaluated that relates "prices" to total visits. Distances are converted to dollar values using per mile conversion factors reflecting both time and out-of-pocket travel costs. The area under the demand curve plus any user charges or entrance fees measures the recreation benefits attributable to the site. The procedure is described in detail below.

(B) The estimate of recreation use for a project derived from application of a per capita use curve or UEM model yields an initial point on a resource's demand curve. This point is the quantity of use that would be demanded at a zero price. For example, assume that the appropriate per capita use rates have been estimated as follows:

Origin	Population	Distance	Visits per Capita	Estimated visitation
A	10,000	10	3	30,000
B	1,000	20	2	2,000
C	3,000	30	1	3,000
Total				35,000

(C) This estimate of 35,000 yields an initial point on the resource's demand curve. To find sufficient points to determine the entire demand curve, it is necessary to make small incremental increases in the price of participation and to measure the quantity of use that would be demanded given these changes. This is equivalent to moving the project farther and farther from the potential users, requiring them to pay more and more in travel costs to reach the project. As the simulated distance increases, use decreases, and for each increment in distance a new use estimate is computed using either the use estimating model or the per capita use curve.

The new use estimates are the various quantities of recreation that would be demanded at increasing prices.

(D) For example, assume that an increment of 10 miles in travel distance is used to simulate an increase in cost for the proposed project described above. The new estimate of use would then be:

Origin	Population	Simulated Distance	Visits per capita	Estimated visitation
	(Actual+10)			
A	10,000	20	2	20,000
B	1,000	30	1	1,000
C	3,000	40	0	0
Total				21,000

(E) This would be a second point on the resource's demand curve; the quantity demanded (21,000 visits) at a price equivalent to the travel cost associated with an increment in distance of 10 miles. (A discussion of the proxy for price used to assign a dollar value to this increment is described below.)

(F) Remaining points on the resource demand curve are then estimated by making continued increments in the price (stimulated increases in distance) until the anticipated visitation from all areas of origin is zero. In the example above using 10-mile increments, the visitation expected with simulated increases in distance would be:

Origin	Estimated Visitation			
	Simulated Increase in mileage			
	0	10 Miles	20 Miles	30 Miles
A	30,000	20,000	10,000	0
B	2,000	1,000	0	0
C	3,000	0	0	0
Total	35,000	21,000	10,000	0

(1) Proxy for Price.

(I) To determine the price at which the various quantities of use are demanded, it is only necessary to convert the incremental increases in distance to the costs that would be incurred by the recreation users if they were required to travel the additional mileage. The variable, or out-of-pocket, travel costs are used as the proxy for price since these are the costs that potential users would be most cognizant of when making a decision whether or not to visit a particular resource area.

(ii) The conversion of mileage to price is readily accomplished by the use of published results from studies conducted periodically by the U.S. Department of Transportation concerning the average cost of operating an automobile. The average variable costs from the most recent study 1976 data) are summarized below (U.S. Department of Transportation, 1977).

Average Variable Costs, in Cents Per Mile, To Operate an Automobile

Variable cost category	Automobile type			
	Standard	Compact	Subcompact	Average
Maintenance, Accessories, Parts, and Tires	4.2	3.4	3.1	3.6
Gasoline and Oil	3.3	2.5	1.8	2.5
Taxes on Gasoline, Oil, and Tires	0.9	0.6	0.5	0.7
Total	8.4	6.5	5.4	6.8

(iii) The variable cost reflects the average out-of-pocket cost per mile to operate various types of automobiles. It does not include such fixed costs as depreciation, insurance, and registration, since those costs would generally not affect the potential user's decision whether or not to travel the additional mileage for recreation purposes.

(iv) Two adjustments are required, however, before this cost can be used as the proxy for price. The first is an adjustment for round-trip mileage. Since the distance measure used in the per capita use curve or regional estimator is the one-way mileage, while the recreation use must incur the variable costs while traveling to and from the project, the cost per mile is doubled. Since more than one user may arrive in each vehicle, a second adjustment must be made to distribute the travel costs of the trip between the number of users within each vehicle. This can be readily accomplished by the use of the average number of users per vehicle determined from the data from the survey of existing sites that was used to develop the per capita use curve or regional estimator.

(v) The variable travel costs are the proxy for price associated with the simulated increase in distance utilized to derive the resource demand curve. Using the average variable cost for all three types of automobiles (6.8 cents per mile) and using a hypothetical average of 2.7 persons per vehicle, the proxy for price for a simulated increase in distance of 10 miles in the above example would be equal to $0.50 (6.8 cents per mile times 2 for round-trip mileage, divided by 2.7 persons per vehicle, times 10-mile increment).

(2) An adjustment for the Opportunity Cost of Time. (i) The use of just variable travel costs in the development of the demand schedules ignores the effects of time on recreationists' travel decisions. When time is ignored, the demand schedules are constructed under the hypothesis that increasing distance decreases use only because there is then a higher money cost. However, the additional time required to travel the increased distance would seem to be an equal or greater deterrent to the recreationist than the out-of-pocket money costs. The exclusion of the time factor introduces a consistent bias into the derived demand schedule, shifting it to the left of the true demand schedule and resulting in an underestimation of the recreation benefits.

(ii) Unfortunately, there is normally a high correlation between travel cost and travel time. People from more distant areas of origin generally must spend more time as well as more money getting to a site than people who live closer. It is therefore usually not possible to estimate the separate effects of the two variables in use estimation models. Ignoring the effect of time during benefit evaluation, however, will result in a consistent bias, an underestimation of the benefits.

(iii) One procedure which is often used to accommodate consideration for the disutility of time is to assume a known tradeoff between time and money. No universally accepted formulation of this tradeoff has yet been established and empirically tested. However, for the purposes of this manual, time will be valued as one-third the average wage rate in the county of origin for adults and one-fourth of the adult value (one-twelfth of the wage rate) for children in county of origin. Other values of time are permitted if supported by documenting evidence.

(3) Benefit Computation. (i) The final computational step in the travel cost approach is to measure the area under the demand curve. This area is equal to the amount users would be willing to pay but do not have to pay for the opportunity to participate in recreation at the resource being evaluated. Any user charges or entrance fees that would be incurred by the use of the site should be added to this value to determine the gross value of the resource associated with the specified management option.

(ii) As previously noted, the travel cost approach can be used for evaluating either the with or the without project conditions, so long as a use estimating model or per capita use curve is available for estimating use under the specified condition. When evaluating the without project condition, the estimate is of the value of the recreation that would be lost at a site if a water resource development project is undertaken. If evaluating a with project alternative, the estimate is of the value of the new recreation opportunities that would be created. If a use estimator is not available for evaluating either the without or one of the with project conditions, than one of the techniques described in other portions of this manual should be utilized.

(iii) The procedure described above is applicable for any type of activity or groups of activities for which use can be described by a use estimating equation or per capita use curve. The separation of day use from overnight use or sightseeing from other day use activities, for example, is dependent upon the specificity of the survey data and the model formulation.

(iii) *Data Requirements.* (A) Development of use estimator models as described above requires that data from existing areas be systematically collected. The major requirement is that the data on the use and the users of a range of types and locations of facilities span the types and locations of those proposed areas for which estimates are to be made. A series of surveys at existing sites can provide such basic data, which would normally include total use, timing and patterns of use, characteristics of users, and their areas of origin.

(B) Methods of data collection that have proven fairly satisfactory involve a short handout questionnaire or interviews of a small sample of randomly selected users of the different recreation areas. It is important that reliable total visit statistics be obtained for each existing area investigated. This can ususally be done satisfactorily with judicious use of traffic counters at most water-based recreation areas. If totals are collected throughout the season, samples for questionnaires or interviews need be drawn only on a few days—on both weekends and weekdays, as patterns are likely to vary greatly between them.

(C) The questions asked may be similarly limited. The major concerns are the origin and purpose of the trip and limited information about the party. A representative range of areas, facilities, and locational proximities should be covered in such surveys. Fully adequate mothods are available that are relatively inexpensive, entail a minimum of difficulty at the site and to the user, and yield meaningful results.

(3) *Contingent Valuation (Survey) Methods.* (i) *Overview.* (A) Contingent valuation methods (CVM's) obtain estimates of changes in NED benefits as a result of changes in the quantity of recreation consumed by directly asking individual recreationists. V_{jk} is an individual household's willingness to pay (WTP) for changes in quantity, Q, of recreation at site j. Individual values may be aggregated across the population of the market area for facility j by summing V_{jk} for all n households in the market area:

$$V_j = \sum_{k=1}^{n} V_{jk}$$

(B) Contingent valuation methods consist of designing and using simulated markets to identify the value of recreational amenities just as actual markets would, if they existed. Three basic steps are involved: (1) the analyst establishes a market to the respondent; (2) he permits the respondent to "use" the market to make "trades" and establish prices or values which reflect the respondent's individual valuation of the recreation opportunities "bought" or "sold"; and (3) the analyst treats the values reported by the respondent as individual values for the recreation, contingent upon the existence of the market. The respondent's bids are used with the data contained in the market description (step 1) to estimate the aggregate value of the recreation being studied.

(C) Contingent valuation methods are particularly appropriate (1) for evaluating projects likely to be one of several destinations visited on a single trip, and (2) where a project results in a relatively small change in quality of recreation at a site. Contingent value results may be adversely affected unless questions are carefully designed and

pretested to avoid several possible kinds of response bias. Several techniques are available for obtaining the individual bids, which are the basic data for CVM.

(ii) *Iterative Bidding Formats.* (A) Iterative surveys are distinguished from other contingent valuation methods in that, following establishment of the market and a complete description of the recreational good, service, or amenity to be valued, the respondent reacts to a series of values posed by the enumerator. The respondent answers "yes" or "no" to questions asking if he is willing to pay the stated amount of money to obtain the stated increment in the recreational good. The enumerator iteratively varies the value posed, until the highest amount which the respondent is willing to pay is identified. This amount is treated as the respondent's bid for the specified increment in the recreational good.

(B) Iterative bidding techniques are most effectively applied in personal interview surveys. Mail survey formats have also been used in research studies. These typically ask the respondent to react ("yes" or "no") to a small number of different but specified values stated in iterative questions and, finally, asked an open-ended question: "Now, write down the maximum amount you will be willing to pay. $———." At the present time, mail survey applications of the iterative bidding technique have not been adequately tested and cannot be recommended.

(C) The recreation facilities to be evaluated will be described in quantity, quality, time, and location dimensions. These should be hypothetical in the sense that they do not precisely describe features of actual sites or proposed projects, but should be described with sufficient precision that the respondent has adequate information on which to base a valuation. To permit estimation of regional models, quantity, quality, and location dimensions should be varied and the iterative bidding exercise repeated. Verbal descriptions should be precise, and in addition, wherever practicable, the pertinent aspects of the facilities should be displayed or depicted using nonverbal stimuli (e.g., photographs, artist's drawings, motion pictures, scale models, etc.).

(D) The good to be valued is "the right to use * * * (the recreation facility). * * * for one year." When the good is defined in this way, the V_{jk} obtained are *annual* measures of the individual's willingness to pay for the existence of a given increment or decrement in recreation opportunities which would be provided at site j. Where there are compelling practical reasons to use a bidding format which defines the good in some other terms (e.g., day of use, trip, etc.), sampling and aggregation procedures must be designed so that the annual values are calculated.

(E) The institutional rules pertaining to the hypothetical market will be described in sufficient detail that the respondent knows his rights and the rights of all others in the market. These rules should be realistic and credible. They should place the respondent in a role, and encourage market behavior with which he is familiar. They should be of a kind generally viewed as just, fair, and ethically sound. They should be nonthreatening: in particular, formats which threaten the respondent with a welfare shock that he may view as unfair should be avoided.

(F) Vehicles should be carefully pretested. At the pretest stage, always include a neutral vehicle, e.g. "the money collected will be placed in a trust fund and devoted entirely to providing * * * [the good]."

(G) The respondent should be provided price or value information and asked "would you buy?," with the clear understanding that "if no, then you would go without." The question "would you be willing to pay. . ?" should be avoided since this may be interpreted by some respondents as an appeal for voluntary contributions. Instead the question must be worded so as to suggest the pragmatic, if harsh, "take it, or leave it" atmosphere of the marketplace.

(H) Depending on the answer, "yes" or "no," the price or value is varied iteratively and the question is repeated until the respondent's point of indifference between the money and the good is identified. Early iterations may change the price widely until the enumerator senses that he is approaching the respondent's indifference point. Then, iterative price variations will become finer.

(I) The starting price quote (called "starting point") will vary across respondents. The particular starting point assigned to a given respondent will be chosen randomly.

(J) The method of payment (called the payment vehicle) should be specified. Payment vehicles which may, in and of themselves, generate an emotional reaction should be avoided; emotional reactions to a specific payment vehicle introduce a confusing element into the bid data. Vehicles based on tax increments, utility bill increments, and hunting or fishing license fee increments may introduce such problems.

(K) General formats for iterative bidding questions are presented below. (Specific examples follow.) The question form must be specific to the particular measure of value to be elicited from the respondent. WTP formats should always be used. However, WTP formats may be incremental (willingness to pay for an increment in a desired recreational opportunity) or decremental (willingness to pay to avoid a threatened decrement in a desired recreational opportunity). The incremental version has two major advantages: it is the theoretically correct measure and, since it confronts the respondent with the (hypothetical) chance to pay for a desired good, it is not likely to provoke an offended reaction on the part of the respondent. The decremental version, which asks the respondent to pay to avoid a change he does not want, may seem unfair or morally offensive to at least some, and thus may elicit biased or otherwise unreliable value estimates. The incremental version is preferred, wherever it is credible.

(L) The incremental version may not be credible where the real world experience is typically one of decrements rather than increments. To determine the value of remaining "unspoiled natural environments" in a world where these are fast disappearing, questions asking "if a new unspoiled natural recreation environment could be created and the right to use it would cost. * * *, would you buy?" may be rejected as fantasy by some respondents. In these circumstances, it may be necessary to resort to decremental formats. Since reasonable doubts can be raised, *a priori*, about the efficiency of WTP formats in this circumstance, the following precautions are essential: take great care to design the best (i.e., most consistent and plausible, and least offensive) formats; and pretest at least two differenct formats, in order to permit statistical testing for differences in the performance of alternative formats.

(M) General examples of the WTP formats are:

WTP incremental: "If you had the opportunity to obtain * * * [describe an increment in recreation facilities]. * * * [describe hypothetical market rules and payment vehicle] * * * would you pay * * * [starting price] * * *? Yes (pay)———. Or would you refuse to pay, and make do without * * * [the increment]? No(pay)———." Reiterate with new prices until the highest price eliciting a "yes" response is identified.

WTP decremental (example 1): "* * * [describe a decrement in

recreation facilities] * * * will occur unless * * * [describe market rules and payment vehicle]. Would you pay * * * [starting price] * * * to avoid * * * [the decrement]? Yes(pay)———. Or would you refuse to pay, and thus permit * * * [the decrement]?———."

WTP decremental (example 2): " * * * [describe a recreation facility which is currently available to respondent] * * * is currently available * * * [describe existing market rules, existing payment vehicle, and existing price]. Unless * * * [the existing price] * * * is increased, * * * [describe a decrement in recreation facilities] * * * will occur. Would you pay * * * [starting price, which is some increment over the existing price] * * *, in order to prevent * * * [the decrement]? Yes(pay)———. Or would you refuse to pay, and thus permit [the decrement]? No(pay)———." Reiterate * * *

(N) Since some respondents may bid only zero amounts to WTP questions, it is important to identify which zero bids represent true zero valuations and which, if any, represent a protest against the rules or payment vehicles used in the iterative bidding format. Check questions should always be used to probe "zero" responses to WTP formats, e.g., "Did you bid zero because: (Check one).

(1) You believe * * * [the stated increment] * * * would be worth nothing to you?

(2) You believe * * * [the vehicle] * * * is already too high?

(3) You believe * * * [the statement increment] * * * would be of value, but you do not think it is fair to expect * * * [the respondent's class of citizen e.g. hunting license holders, utility customers] * * * to pay for it."

(O) Given this kind of question, answers (2) and (3) are "protest" responses, addressed not to the value of the good but to some element of the question format. Protest bids should be recorded but eliminated from calculations to estimate values. In pretests, formats that elicit more than 15 percent protest responses should be discarded, since a high incidence of protest bids may be an indication that some nonzero bids are also distorted.

(iii) *Noniterative Bidding Formats.*(A) Noniterative bidding formats are adaptable to implementation with mail surveys. There are two kinds of noniterative formats: *(1)* close-ended formats, which ask respondents to react ("yes" or "no") to a single stated value, and *(2)* open-ended formats, which ask the respondent to write down the maximum amount he would be willing to pay. A variant of the second kind of format asks the respondent to either select his maximum WTP from a list of stated discrete values or write down his maximum WTP. Noniterative bidding formats are not likely to be as reliable as iterative formats.

(B) The use of noniterative mail survey formats is generally discouraged. It is permissible only for recreation benefit analysis of small projects. Mail survey formats will, insofar as is practicable, retain the basic attributes of the personal interview formats described above. Survey instruments should be printed using a process that permits reproduction of color photographs and, if appropriate, other nonverbal stimuli.

(C) The sample should be divided, using open-ended bidding formats with one half and close-ended formats with the other half. The bids obtain using these two kinds of formats should be analyzed to determine if the format influences the results obtained, to a significant degree. Examples of these formats are presented below.

(D) *Open-ended:* Due to pressures of population growth and economic development, 10 miles of trout stream such as that shown in photograph ——— are likely to be converted to other uses (e.g., a reservoir) and thus lost for trout fishing. Assume the only way to preserve this 10-mile stretch for trout fishing is for trout fishermen to agree to buy an annual pass to fish in that stream segment. The money collected would pay for preservation of the stream section. If the stream segment was ——— miles from your home, and you could expect to catch ——— trout in a typical day's fishing there, what is the *maximum amount* you would pay for the annual fishing pass?

——————Dollars per year——————

(E) *Closed-ended:* (information presented does not change; the final question reads:) * * * and an annual fishing pass costs $——— (assign dollar amounts randomly to respondents). Would you buy one? Yes ——— No ———

(iv) *Use Estimation with CVM's.* (A) All of the contingent valuation procedures described thus far generate annual value estimates directly, instead of generating, first, values per user day and, then, estimates of expected user days. The "annual value estimation" procedure is superior, in that it is more reliable, it automatically corrects for the economic influence of existing recreation opportunities, and it is better adapted to estimating activity and existence values, where both are important.

(B) However, if for some reason values per user day are desired by analysts, contingent valuation formats can be designed to estimate such values. Questions are worded in terms of a day's activity rather than an annual valuation. Great care must be taken in the case of proposed increments to determine the respondent's valuation of a day at the proposed site, given the continued availability of existing sites. Estimates of use may be made *either* by collecting such information as part of the survey or by other approved methods.

(C) To collect use information in the survey, proceed as follows:

(1) For *decrements* in recreation opportunities, ask: how many trips the household made *(i)* last year and *(ii)* in a typical year, if last year was unusual for any reason; how many days did the trip last; and how many household members participated in each trip.

(2) For *increments,* ask: *(i)* the same information as for decrements, but pertaining to existing recreation sites similar to the proposed increment. Then, if the proposed increment (described with verbal and nonverbal stimuli) were made available: *(ii)* "how many trips, how long, and how many family members" for the proposed increment; and *(iii)* "how many trips, how long, and how many family members" *in total for both the existing and proposed sites.*

(v) *Using Contingent Valuation Methods.* Contingent valuation methods can be used to develop value estimator models or to estimate recreation benefits for a specific proposed project. These two uses are discussed below.

(A) *Value Estimator Models.* *(1)* Value estimator models (VEM's) are statistical models of the relationships between the bid and selected characteristics of the site(s) and user populations. A typical model has the form:

$$V_{jk}=B_0+B_1E_k+B_2D_{jk}+B_3C_k+B_4S_{jk}+B_5A_k+B_6Q_j+B_7$$

where

V_{jk} is the value to household k of the specified change in recreation opportunity at site j.

E_k is a vector of social and demographic variables pertaining to household k, typically including income, ethnicity, and education.

D_{jk} is distance from home of k to site j.

C_k is a measure of the capacity utilization of the existing stock of recreation facilities similar to site j in the market area centered at k's home.

A_k is distance from the home of k to the nearest existing alternative facility

offering recreational opportunities similar to site j.

S_{jk} is an index of the availability of substitute recreation facilities (e.g., ocean beach vs. reservoir beach) in the market area centered at k's home.

Q_j is a vector of variables describing the quality of recreation at site j.

, is the increment or decrement in recreation at site j specified in the contingent valuation mechanism.

(2) This method has several desirable characteristics: *(i)* the V_{jk} are current WTP estimates of value for increments and decrements in recreation opportunity; *(ii)* the V_j are annual values of the existence of the recreation facilities at site j, and thus replace user days and unit day values; *(iii)* the V_{jk} are not arbitrarily set at the same daily value for all users, as are unit day values; *(iv)* the variables in vector Q_j provide a systematic statistical basis for estimating how V_j varies with site quality; *(v)* the variables C_k, S_{jk}, and A_k provide a systematic statistical basis for adjusting V_j to account for competing and and substitute facilities.

(3) Estimating a value estimator model requires the following steps:

(i) The final bids, after any calculations necessary to convert them to annual household values, serve as the observations of the dependent variable.

(ii) The observations of demographic variables serve as observations for the first set of independent variables.

(iii) Existing recreation resource inventories and planning data provide the basis for specifying the second set of independent variables, i.e., those describing the existing stock of recreation opportunities. The location of each respondent's home is recorded on the completed survey instrument, and it, together with the above-mentioned inventory and planning data, permits calculation of individual observations of those variables which relate the existing stock of recreation opportunities to the location of the respondent's home. To complete the task of specifying these variables, some indices of availability and quality of the existing recreation stock must be developed. These include indices of facilities and conveniences and indices of site quality, especially esthetic quality.

(iv) Site-specific descriptors serve as the third and final set of independent observations. These are the data provided to the respondent and upon which he based each of his bids. The estimated esthetic score of each photograph used in the bidding process serves as one of these site-specific descriptors. Others include the size, distance, etc., information provided in the bidding format.

(v) Using the best available econometric techniques, the equation is then estimated. The dependent variable is expressed in terms of annual value per household and thus eliminates the need to separately estimate user-days and the mean value of a user-day.

(4) Using an existing VEM to estimate recreation benefits of a proposed project involves the following steps:

(i) Determine the market area for the recreation services affected by the project. If the market area is expected to exceed 120 miles, documentation of the reasons for this is required.

(ii) Determine, from census data, the demographic characteristics of the market area population.

(iii) Divide the market area into groups, on the basis of demographic variables and distance from the proposed site (one such group might be "households headed by a male of ——— ethnic group with 10–12 years of education, and household income between $12,001 and $15,000 annually, living 51–75 miles from the site).

(iv) The values of the variables describing existing recreation facilities obtained from inventory and planning data are calculated separately for each market subarea.

(v) The values of the variables describing project-specific attributes are obtained from project planning data.

(vi) Estimate, by using the above-mentioned data and the fitted model, the household value for the proposed increment or decrement in recreation opportunities for a typical household in each group.

(vii) Multiply this value by the number of households in the group, and sum the group values to get the aggregate benefit estimate.

(B) *Applying CVM to a Specific Proposed Project.* In some circumstances, CVM's may be used to estimate the recreation benefits of a specific proposed project. Special care must be taken in design of the survey instruments and editing of the data, however, as some respondents may try to influence the outcome of the analysis by their bidding responses. The survey design and sampling requirements of such a study are discussed in the following section.

(C) *Data Requirements. (1) Survey Design.* For contingent valuation exercises the survey instrument must contain two major sections: bidding formats and a section for collecting appropriate demographic data. In addition, a brief final section should elicit respondent feedback. Since there is no reason to prohibit the use of additional sections, other data useful for recreation planning may be gathered during the interview. Additional sections may include recreational activities, attitudes, recreational preferences, and projected use of proposed new recreational facilities. In order to minimize the inconvenience to respondents and avoid respondent fatigue and lapses of concentration, the complete interview should typically not require more than 30 minutes.

(2) Pretesting. (i) The basic survey instrument, including bidding formats and questions to collect additional data (e.g., demographic data, respondent's history of use of recreational facilities, etc.), must be pretested, using a sample of at least 30 respondents in order to generate a data set permitting appropriate statistical tests. The pretest sample should not be drawn from the same population as the actual study sample. Sampling procedures for the pretest are not especially crucial, but an attempt should be made to obtain a demographic cross section of recreationists. The pretest instrument should test a variety of bidding formats. A variety of hypothetical maket designs and payment vehicles should be pretested.

(ii) Nonresponses and protest responses should be tabulated for all bidding formats. Those formats eliciting large proportions (i.e., more than 15 percent) of such responses should be eliminated, or redesigned and retested. Statistical tests for information bias, vehicle bias, and starting point bias should be performed, and formats which generate any of these biases should be eliminated, or redesigned and retested.

(3) Sampling. (i) Following instrument pretesting and redesign, to the extent necessary, a sampling frame for the main survey should be drawn. The household is the basic sampling unit. For estimation of activity values, where reliable lists of participants are available (e.g., fishing license holder lists), samples may be drawn from such lists. For activity values where no such lists exist and for existence values, the sample must be drawn from the regional population of households.

(ii) Sampling procedures should have the performance characteristics of random sampling. To save travel time in a personal interview survey, randomized, cluster sampling is permissible, provided that no cluster has a size greater than one-thirtieth the sample size. Sample size should be no less than 200 households. The respondent selected to answer on behalf of the household should preferably be

the head-of-household or spouse-of-the-head. Other members of the household are acceptable, in the absence of the head and spouse, provided they are adults who have assumed a responsible life-role (e.g. parent, or financially self-supporting).

(*iii*) Random sampling methods are also used for mail surveys. It is necessary to use at least two followup mailings to reduce nonresponse. In addition, a random telephone survey of 10 percent of the nonresponses remaining after the second followup mailing is necessary. The results of the telephone survey must be analyzed separately in order to permit testing for nonresponse bias.

(*4*) *Specific Proposed Project Requirements.* (*i*) Procedures for valuing recreation benefits using project-specific iterative bidding formats do not differ, in some respects, from the procedures outlined above. In the following, those aspects which are different will be highlighted.

(*ii*) The population to be sampled is that of the market area(s) for the various categories of recreation opportunities which would be beneficially or adversely affected. Survey instruments follow the basic format described above. The major exception is that the bidding formats provide site-specific information pertaining to the proposed project, itself. Photographs and other stimuli should be focused on the "without project" condition, for information pertaining to the proposed project, itself. Photographs and other stimuli should be focused on the "without project" condition, for adverse effects, and the "with project" condition, for beneficial effects. In the latter case, it may be essential to use photographs taken at the site of a completed, but similar, project.

(*iii*) Individual bid data must be used as observations to test carefully for biases, including vehicle bias, information bias, starting point bias, and strategic bias, using established statistical testing procedures. Evidence of bias should lead to elimination of formats producing bias at the pretest stage, and lead to reporting of any bias remaining after all instrument redesign possibilities have been exhausted. Final bids are aggregated across the sample and then projected to the market area population. These "population aggregate bids" are then used as estimates of the total value, positive or negative, of the effects, beneficial or adverse, of the proposed increments or decrements in recreation opportunities. Net project recreation effects are calculated as above.

(4) *Unit Day Value.* The unit day value (UDV) method is an approach for estimating recreation benefits that relies on expert or informed opinion and judgment to approximate the average willingness to pay by users of Federal or federally assisted recreational developments. By applying a carefully thought-out and adjusted unit day value to estimated use, an approximation is obtained that may be used as an estimate of project recreation benefits if the agency can demonstrate that more reliable TCM or CVM estimates are either not feasible or not justified for the particular project under study, as discussed under applicability criteria. (Section 7).

(i) *How to Implement.* (A) Where the UDV method is used for economic evaluations, planners will select a specific value from the range of values provided in the most current published schedule. Application of the selected value to estimated annual use over the project life, in the context of the with and without framework of analysis, provides the estimate of recreation benefits.

(B) Two classes of outdoor recreation days, general and specialized, may be differentiated for evaluation purposes. "General" refers to a recreation day involving primarily those activities which are attractive to the majority of outdoor recreationists and which generally require the development and maintenance of convenient access and adequate facilities; "specialized" refers to a recreation day involving those activities for which opportunities in general are limited, intensity of use is low, and a high degree of skill, knowledge, and appreciation of the activity by the user may often be involved.

The following national schedules of recreation day values are provided for current use:

Type of Recreation Day	Range of Unit-Day Values
General	$1.07-$3.22
Specialized	$4.29-$12.87

(C) Estimates of total recreation days of use for both categories, where applicable, will be developed. The general class constitutes the great majority of all recreation activities associated with water projects, embracing the more usual activities such as swimming, picknicking, boating, and most warm water fishing. Activities less often associated with water projects, such as big game hunting and salmon fishing, are included in the specialized class. A separate range of values is provided for each class and for fishing and hunting in a conversion table (Table 13) to facilitate adoption of a point system in determining the applicable unit values for each individual project under consideration.

(D) When employing this method to determine recreation benefits, departure from the range of values provided is not permissible. Where evidence indicates a value which should be outside the published range, the TCM or CVM will be required to evaluate recreation benefits.

(E) In every case, planners are expected to explain the selection of any particular value. To assist in explaining a specific value, a point rating method may be used. The method illustrated here contains five specific criteria and associated measurement standards designed to reflect quality, relative scarcity, ease of access, and esthetic features. The list of criteria and weights assigned may vary with the situation. Therefore, public involvement should occur in the value determination process. Planners in the various agencies are also expected to make appropriate use of studies of preferences, user satisfaction, and willingness to pay for different characteristics. In doing so, particular efforts should be made toward using estimates derived elsewhere from applications of the TCM and CVM techniques, in supporting the UDV.

(1) General Recreation (Table 11). Activities in this group are those associated with relatively intensive development of access and facilities as compared to the specialized recreation class. Generally, progressively higher physical standards for each unit of carrying capacity would be involved in selecting higher unit values, and these may be accompanied by larger related non-project costs.

(2) Specialized Recreation (Table 12). *(i)* This group includes those activities whose values are generally lowered, if not actually excluded in some cases, by the type of development that enhances activities in the general recreation class. Thus, extensive or low density use and development constitutes the higher end of this range of values; for example, big game hunting and wilderness pack trips. Also included in the upper end of the range are relatively unique experiences such as inland and marine fishing for salmon and steelhead, white water boating and canoeing, and long-range boat cruises in areas of outstanding scenic value. Examples of activities to which values at the lower end of the range would be assigned include upland

bird hunting and specialized nature photography.

(ii) The unit day values to be used for both the general and specialized recreation classes should be further adjusted to reflect additional quality considerations expected to prevail at various project sites in various regions of the Nation, and weighted according to importance to the users. For example, a reservoir that is expected to carry a relatively heavy load of suspended silt or is expected to be used beyond optimum capacity would be less desirable, and therefore of lower unit value, than one that will have clear water and be less crowded.

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TABLE 11: Guidelines for Assigning Points for General Recreation

Criteria	Judgment Factors				
a) Recreation Experience Total Points: 30 Point Value:	Two general activities 3/ 0-4	Several general activities 5-10	Several general activities; one high quality value activity 4/ 11-16	Several general activites; more than one high quality value activity 17-23	Numerous high quality value activities; some general activities 24-30
b) Availability of Opportunity 7/ Total Points: 18 Point Value:	Several within 1 hr. travel time; a few within 30 min. travel time 0-3	Several within 1 hr. travel time; none within 30 min. travel time 4-6	One or two within 1 hr. travel time; none within 45 min. travel time 7-10	None within 1 hr. travel time 11-14	None within 2 hr. travel time 15-18
c) Carrying Capacity 1/ Total Points: 14 Point Value:	Minimum facility development for public health and safety 0-2	Basic facilities to conduct activity(ies) 3-5	Adequate facilities to conduct without deterioration of the resource or activity experience 6-8	Optimum facilities to conduct activity at site potential 9-11	Ultimate facilities to achieve intent of selected alternative 12-14
d) Accessibility Total Points: 18 Point Value:	Limited access by any means to site or within site 0-3	Fair access, poor quality roads to site; limited access within site 4-6	Fair access, fair road to site, fair access, good roads within site 7-10	Good access, good raods to site; fair access, good roads within site 11-14	Good access, high standard road to site; good access within site 15-18
e) Environmental Quality Total Points: 20 Point Value:	Low aesthetic factors 5/ exist that significantly lower quality 6/ 0-2	Average aesthetic quality; factors exist that lower quality to minor degree 3-6	Above average aesthetic quality; any limiting factors can be rectified reasonably 7-10	High aesthetic quality; no factors exist that lower quality 11-15	Outstanding aesthetic quality; no factors exist that lower quality 16-20

FOOTNOTES

1/ Value should be adjusted for overuse.

2/ Value for water-oriented activities should be adjusted if significant seasonal water level changes occur.

3/ General activities include those which are common to the region and which are usually of normal quality. This includes picnicking, camping, hikhiking, riding, cycling, fishing and hunting which which would be of normal quality.

4/ High quality value activites include those which are not common to the region and/or nation and which are usually of high quality.

5/ Major aesthetic qualities to be considered include geolo and topography, water, and vegetation.

6/ Factors to be considered in lowering quality include air and water pollution, pests, poor climate, and unsightly adjacent areas.

7/ Likelihood of success at fishing and hunting.

8/ Intensity of use for activity.

TABLE 12: Guidelines for Assigning Points for Specialized Recreation

Criteria			Judgment Factors		
a) Recreation Experience 8/ Total Points: 20 Point Value:	Heavy use or frequent crowding or other interference with use 0-2	Moderate use, other users evident and likely to interwith use 3-6	Moderate use, some evidence of other users and occasional interference with use due to crowding 7-10	Usually little evidence of other users, rarely if ever crowded 11-15	Very low evidence of other users, never crowded 16-20
b) Availability of Opportunity 7/ Total Points: 18 Point Value:	Several within 1 hr. travel time; a few within 30 min. travel time 0-3	Several within 1 hr. travel time; none within 30 min. travel time 4-6	One or two within 1 hr. travel time; none within 45 min. travel time 7-10	None within 1 hr. travel time 11-14	None within 2 hr. travel time 15-18
c) Carrying Capacity 1/ Total Points: 14 Point Value:	Minimum facility development for public health and safety 0-2	Basic facilities to conduct activity(ies) 3-5	Adequate facilities to conduct without deterioration of the resource or activity experience 6-8	Optimum facilities to conduct activity at site potential 9-11	Ultimate facilities to achieve intent of selected alternative 12-14
d) Accessibility Total Points: 18 Point Value:	Limited access by any means to site or within site 0-3	Fair access, poor quality roads to site; limited access within site 4-6	Fair access, fair road to site, fair access, good roads within site 7-10	Good access, good raods to site; fair access, good roads within site 11-14	Good access, high standard road to site; good access within site 15-18
e) Environmental Quality Total Points: 20 Point Value:	Low aesthetic factors 5/ exist that significantly lower quality 6/ 0-2	Average aesthetic quality; factors exist that lower quality to minor degree 3-6	Above average aesthetic quality; any limiting factors can be rectified reasonably 7-10	High aesthetic quality; no factors exist that lower quality 11-15	Outstanding aesthetic quality; no factor exist that lower quality 16-20

FOOTNOTES

1/ Value should be adjusted for overuse.

2/ Value for water-oriented activities should be adjusted if significant seasonal water level changes occur.

3/ General activities include those which are common to the region and which are usually of normal quality. This includes picnicking, camping, hikhiking, riding, cycling, fishing and hunting which which would be of normal quality.

4/ High quality value activites include those which are not common to the region and/or nation and which are usually of high quality.

5/ Major aesthetic qualities to be considered include geolo and topography, water, and vegetation.

6/ Factors to be considered in lowering quality include air and water pollution, pests, poor climate, and unsightly adjacent areas.

7/ Likelihood of success at fishing and hunting.

8/ Intensity of use for activity.

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Table 13.—*Conversion of Points to Dollar Values*

Activity categories	Point values										
	0	10	20	30	40	50	60	70	80	90	100
General Recreation (Points from Table E-1)	1.07	1.25	1.44	1.68	1.93	2.30	2.48	2.67	2.85	3.04	3.22
General Fishing and Hunting (Points from Table E-1	1.57	1.74	1.90	2.07	2.28	2.51	2.73	2.94	3.06	3.17	3.20
Specialized Fishing and Hunting (Points from Table E-2)	7.50	7.69	7.88	8.08	8.27	9.03	9.80	10.57	11.34	12.10	12.87
Specialized Recreation Other than Fishing and Hunting (Points from Table E-2	4.29	4.65	5.00	5.36	5.72	6.44	7.15	8.58	10.01	11.44	12.87

NOTE.—Unit-Day recreation values may not exceed the values provided by this table.

(iii) Hunting and fishing may be treated either as general recreation (Table 11) or specialized recreation (Table 12) depending upon whether it is associated with developed areas or back country areas, respectively. In either case, the recreation experience (criterion "a" in the tables) will be given points according to the additional consideration of the chances of success with the midpoint of the value range associated with the region's average catch or bag. Other criteria may be modified, if appropriately based on available evidence about the preferences and willingness to pay of hunters and fishermen for different recreation quality factors.

(iv) The degree to which alternative nonproject opportunities are available to recreationists would also be considered in the assignment of values. Higher values should be assigned if the population to be served does not have existing water-oriented recreation opportunities. If water-oriented recreation opportunities are relatively abundant, as compared to other outdoor recreation opportunities, lower unit values should be assigned, even if a large number of visitations are expected at the proposed development.

(3) Establishing Specific Values Within Each Range. Unit values selected are to be considered net of all associated costs of both the users and others in utilizing or providing these resources and related services. The agencies will be encouraged through review procedures, demonstration projects, and educational workshops to adopt the TCM and CVM techniques for project evaluations that would otherwise have used UDV's. As agencies gradually adopt the CVM and TCM, and develop a more comprehensive set of regional models, reliance on the UDV can be expected to diminish.

(ii) *Estimating Use in the UDV Method.* (A) Using the ranges of values requires first estimates of annual use foregone and expected at recreation sites being studied. Use can be estimated by means of a use estimating equation or per capita use curve as discussed above, but if such are available the second step of the travel cost method should generally be used instead of UDV's to derive benefit estimates.

(B) The capacity method is an alternative method of estimating use, but one with severe limitations. The capacity procedure involves the estimation of annual recreation use under without project and with project conditions through the determination of resource or facility capacities (taking into consideration instantaneous rates of use, turnover rates, and weekly and seasonal patterns of use). Seasonal use patterns are climate and culture dependent and probably account for the greatest variation in use estimates derived through this method. In general, annual use of outdoor recreation areas, particularly in rural locations and in areas with pronounced seasonal variation, is usually in the neighborhood of 50 times the design load. Design load is the number of visitors to a recreation area or site on an average summer Sunday. In very inaccessible areas and in those known for more restricted seasonal use, the multiplier would be less, and in urban settings or in areas with less pronounced seasonal use patterns, the multiplier would be greater. In any case, the actual estimation of use involves an analytical procedure using instantaneous capacities, daily turnover rates, and weekly and seasonal use patterns as specific data inputs.

(C) Because the capacity method does not involve the estimation of site specific demand, its use is valid only when it has been otherwise determined that sufficient demand exists in the market area of project alternatives to accommodate the calculated capacity. On this basis its greatest potential would be in urban settings where it is obvious on the surface that sufficient demand exists. Additionally, its use should be limited to small projects possessing (1) a facility orientation (as opposed to a resource attraction) and (2) restricted market areas that would tend to make the use of alternative use estimating procedures less useful or efficient.

(1) Calculating Values. The estimates of annual use are combined with the selected unit day values to get an estimate of annual recreation benefits. The value assigned to each activity or category of activities will be multiplied by the number of recreation days estimated for that activity. The products are then summed to obtain the estimate of total value of an alternative. Recreation days to be gained and to be lost or foregone as a result of a particular alternative shall be listed and valuated separately, not merely shown as net recreation days. Transfers of recreational users to or from existing sites in the region must be calculated, and the net regional gain or loss used in the final benefit estimated. Adequate information must appear in the discussion of the use estimation and valuation procedure or elsewhere in the report concerning the alternative being considered, so that a reader of the report could derive a similar value for each activity.

(2) Updating. The Water Resources Council will update the schedule of monetary unit values annually in October and publish them in the Federal Register. This updating will be based on the Consumer Price Index for all items and all consumers for September of that year or on improved market data. These revised values will be using during the fiscal year for all new project studies, reevaluation of studies, or reformulation of studies meeting the criteria for use of this technique.

(f) *Regional Recreation Benefit Models.* (1) Regional recreation benefit models (RRBM's) are statistical models based on data from existing recreation sites in a region that can be used to estimate recreation benefits of proposed water resource projects. Use estimator models (EUM's), based on travel cost studies, and value estimator models (VEM's), based on contingent value surveys, are regional models if estimated with appropriate regionwide data. The principal difference between UEM's and VEM's is that the former predict use as a first step of the travel cost method discussed in section 5-b above, while the latter predict

recreation value directly. Both methods result in statistical equations which relate recreation benefits to the characteristics of the recreation area and user populations. By using data on the demographic and socioeconomic characteristics of potential user populations and known attributes of a proposed recreation site, analysts can use an existing RRBM to derive recreation benefit estimates for proposed projects.

(2) Development of RRBM's requires systematic collection of data from existing recreation areas. Data are needed on the use and users of a range of exsisting types and locations of facilities similar to the proposed projects to be evaluated.

(3) Currently available regional estimators are limited in terms of the recreational activities and areas of the country that are covered, far short of the needed series of regional estimators applicable to the 21 major water resources regions. The models would provide estimates of NED beneifts from major categories of recreation activities at proposed project sites. Such models emphasize water-based recreation activities, but will also allow evaluation of non-water-based recreation that would be foregone if proposed projects are undertaken. The recreation activities to be emphasized in the regional models will differ from region to region. Over time, as additional regional studies are completed, the "library" of regional estimators will grow, and the usefulness of the method will increase as compared to project specific studies.

(4) A cooperative effort among Federal agencies under the auspices of the Water Resources Council to develop models for the 21 water resource regions is desirable. Collaboration among agencies in the development of models will:

(i) Make efficient use of data collection efforts and scarce analytical talents needed to apply the TCM and CVM techniques.

(ii) Minimize respondent burden from public surveys.

(iii) Provide a uniform data set and methodology for all agencies engaged in recreation planning in a particular region.

(iv) Facilitate prompt application of up-to-date methods throughout the Federal agencies.

(5) The Water Resources Council will periodically publish a list of regional recreation benefit estimation models that can be used to evaluate proposed projects. The WRC will specify for what types of project, kinds of recreation activity, and region(s) of the country each of the models is appropriate.

(g) *Application of Alternative Valuation Methods.* (1) The valuation methods discussed above vary widely in their conceptual correctness, statistical reliability, and ease of application in terms of both cost and time. The framework for application outlined below is an attempt to balance the costs of developing recreation benefit estimates with the need for accurate, reliable estimates in a range of water and related land resource planning situations.

(2) The framework considers three basic dimensions of water and related land resource planning situations, two measures of the size of the recreation benefit created or displaced by the proposed project, and the nature of the recreation resource involved. A project which would result in or displace fewer than 20,000 to 30,000 recreation days annually will be considered "small." The framework also takes into account the relative size of recreation compared to other project outputs and costs by requiring a more accurate valuation method of recreation benefits or costs. The nature of the recreation resource involved provides the third criterion. Projects involving major recreation resources or natural areas require a specific CVM or TCM study. If such a resource is not involved, the valuation method to be used depends on other factors, as depicted in Table 14.

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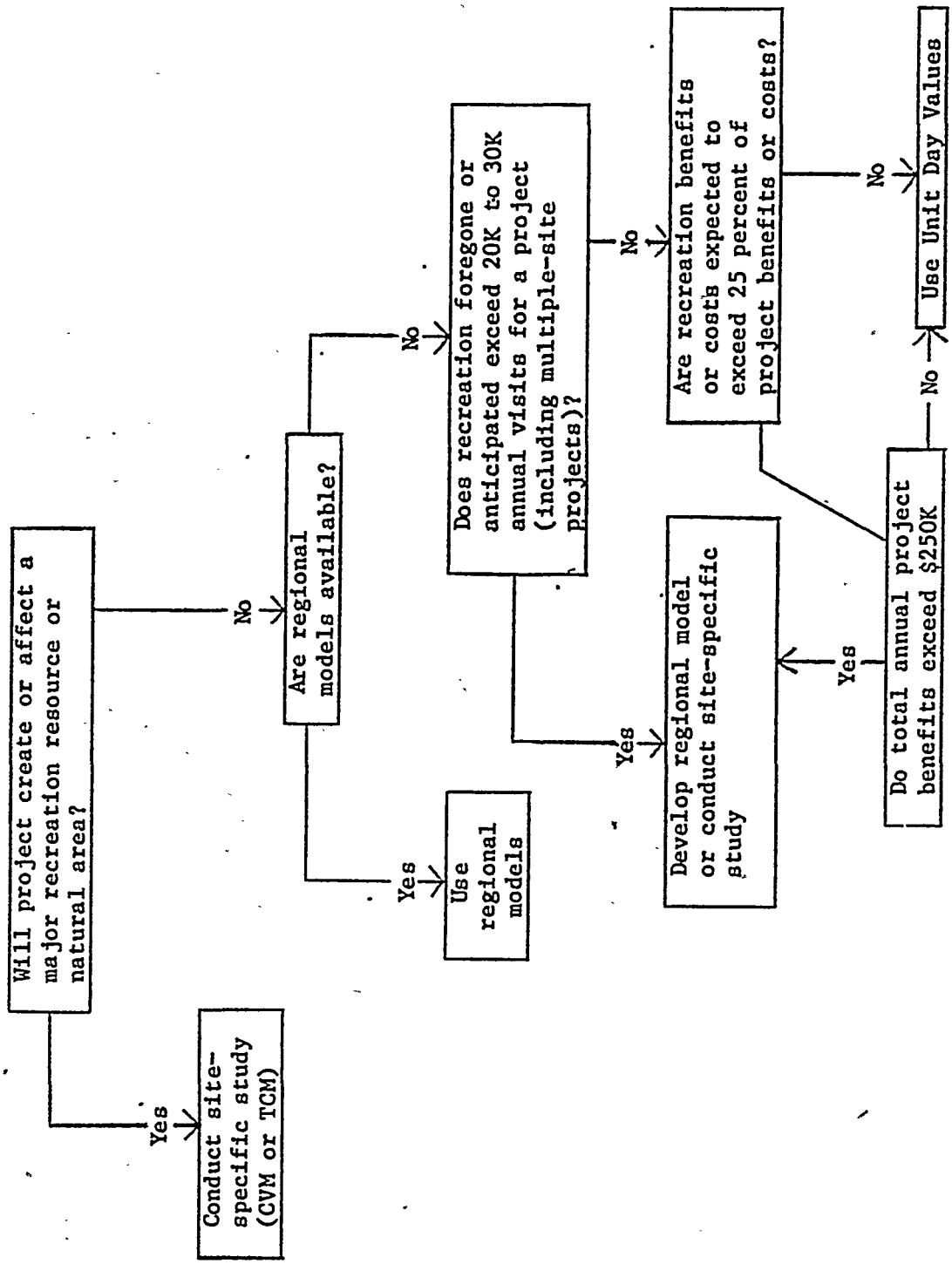
Table 14: Process for Identifying Valuation Method



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(h) *Risk and Uncertainty.* In general, the application of risk and uncertainty analysis to the recreational components of project benefits and costs will follow the methodology described in Section II-B of this manual.

(i) *Report and Display Procedures.* The report and display procedures outlined in this section are not intended to substitute for, but are viewed as supplements to, the normal reporting procedures followed by the Federal water agencies to facilitate project review. In terms of content, the report and display procedures used in official planning reports should follow essentially the same functional steps and format used in this manual part. As far as level of detail is concerned, the general rule to follow is that planning reports should permit a technical review of planning and evaluation results. However, agencies should be capable of providing necessary backup for a more detailed review of all pertinent aspects.

§ 704.130 Commercial fishing and trapping [Reserved].

§ 704.131 Increases in output resulting from external economies.

(a) *Introduction.* This chapter provides procedural guidance for the evaluation of national economic benefits associated with external economies of Federal water resources plans. External economies represent the net increases in national economic efficiency that result from a plan if an increase in the output of final consumer goods or intermediate goods takes place beyond that which would be obtained in the absence of the plan, and over and above direct outputs of the plan.

(b) *Conceptual basis.* (1) External economies considered here are the beneficial effects to individuals, groups, or industries which occur as an indirect result of the project or plan. They are measured as the NED value of the increased output of intermediate or final consumer goods or services beyond those which will occur as a direct result of the plan.

(2) Externalities may be classified as technological or pecuniary. *Technological external economies* involve changes in efficiency due to project induced shifts in the production functions of a firm or relaxation of constraints to allow the firm to move to the minimum point on the average cost curve. Such external economies exist only where output of firms and/or individuals becomes more efficient through the use of new or improved technology made profitable by the direct output of the project. *Pecuniary external economies* relate to the financial effects of one project or plan on others, as encompassed in price changes for outputs or inputs. These effects represent a shift in prices and do not normally represent changes in resource use efficiency, but are rather transfers between economic sectors that have distributional but not output increasing impacts and therefore are not relevant to NED analysis.

(c) *Planning setting.* Standard planning procedures consistent with the Principles and Standards will be used. This procedure requires comparison of the "with-plan" condition to the "without-plan" condition. In the area of external economies it is important that the agency directing the plan define the project or plan's boundary of influence on direct users of the project's output. Economic efficiencies gained by firms and individuals in production and consumption, but not delineated as the primary beneficiaries of direct project output, will be valued and measured as beneficial effects from external economies to the plan.

(1) *Without project conditions.* The future expected to exist without implementation of the plan is to be forecasted. Future projections for direct users, as well as a separate forecast of external economics without the plan, must be made. This forecast predicts without project levels of output and production levels based on available levels of inputs excluding a new water resource project. The "without" forecast must account for the real output level expected in the absence of the plan.

(2) *With project conditions.* The future with the plan will be forecasted and its areas of influence delineated to include direct beneficiaries only. The agency planners will then look at firms and individuals and determine whether the output of the direct users is used as input and leads to economic efficiency for the related firms. Those external economies identified without the plan and with the plan are compared. Only the new or additional changes that can be anticipated as a result of a proposed plan should be attributed as beneficial effects of the plan.

(d) *Evaluation procedure.* (1) *General.* (i) External economies can exist only if the related resources 1) are immobile, 2) are unemployed or underemployed, and 3) will utilize or benefit from project output to increase their productivity or output. If such impacts can be priced, their total values can be computed and added to the benefits. Whether or not their values should be added in, if they affect production possibilities in a potential enterprise, depends upon whether or not (and when) the enterprise is really expected to materialize. Technological external economies will only accrue to firms and individuals existing today.

(ii) Technological external economies can be computed as a reduced average cost per unit of output or as an increase in value added. In those cases where these effects are obviously less than the planning cost required to evaluate them, no evaluation should be made. In most cases, if the technological external economy can be identified as a result of project action, the effects should be measured. The measurement techniques for evaluating are the same as those used for direct benefits and must be developed for each change function. These techniques are directed toward measuring the marginal benefits less the marginal costs of the affected firm.

(iii) The following are two examples of technological external economies:

(A) *Municipal and Industrial Water Supply.* The provision of water supply for community and residential use will not generally stimulate external economies to enhance national economic development. It is usually assumed that the necessary quantities of these outputs will be provided by some alternative means in the absence of the plan. In dealing with a conservation plan for M + I water supply, an externality may exist under certain conditions. In a proposed plan, the direct users' sewage treatment plant is capable of treating a given amount of waste water. Under the "without" condition plan, the plant would need to be enlarged in order to treat the increased amount of waste water predicted for the city. Under the "with" plan condition, the city implements a conservation plan, and the plant ends up treating less waste water. Any reduction of waste water treatment costs is a benefit to the city and an external economy to the plan.

(B) *Flood Control, Land Stabilization, Drainage, and Related Activities.* A flood control plan is being considered to protect a strip of land through an urban area. The direct benefits will accrue to those protected by the project from flood waters and the protection of bridges and other structures built through the flood plain. The "without" plan indicates that the property in the floodway would be subject to heavy flood damages, possibly every 25 years. The "with" plan condition would convert the flood zone to a city green way with golf courses, playgrounds, and various low level recreation uses. Overlooking the floodway are ten homes. "Without" the plan the values of

the homes would be the same as today. "With" the plan the values of the homes would be enhanced by the proposed green belt with parks. The increase in value would be counted as an external economy to the owners and the plan.

(2) *Problems in application.* The major problems to be encountered by application of this procedure are the identification of external economies and their delineation into technological and pecuniary external economies. Technological external economies are benefits to the plan; however, pecuniary external economies normally represent income transfers and not benefits. Pecuniary externalities result if implementation of the plan leads to decreases in the price of a product itself; increases in the price of a complement; decreases in the price of a substitute; decreases in the price of a joint product; or increases in the price of a resource used in production. All these effects are occasioned by shifts in prices and do not normally represent changes in resource use efficiency, but are rather transfers between economic sectors having distributional but not output-increasing impacts.

(3) *Data sources.* Where available, the data should be gathered from primary data sources in order to determine if the external economy exists. In all cases it is important that every effort be made to avoid double counting of benefits and delineation of benefits that do not exist. To collect data it is appropriate to measure the current situation and the economic efficiency of potentially affected firms and individuals. A projection should then be made of the future without and the future with the project.

(4) *Risk and uncertainty.* Benefits from external economies are unique to each project design and its location. Such unique conditions have no historical basis of data and are therefore highly limited to subjective estimates. Such estimates are high on risk and relative uncertainty as to being realized. They must be based on the total mix of project outputs and the effect these mixes would have on inducing added productivity in the project area.

(e) *Report and display procedures.* External economies should be identified by component and added onto the benefits of the cost-benefit analysis. The external economies must be clearly identified, and the methodology used to value the benefits must be presented in the report. The report should provide a tabular breakdown of all external economies claimed for the project, according to the following format:

Component	Direct benefits	External economies	Total benefits
M+I			
Recreation			
F & WL			
Irrigation			
Totals			

The total number of external economies for each plan should be displayed in the NED account as a line entry labeled external economies for benefits.

NED Account	
Benefits:	
M+I water supply	
F & WL	
Recreation	
External Economies	
Total NED Benefits	

§ 704.132 Unemployed or underemployed labor resources.

(a) *Introduction.* The Principles and Standards permits the economic effects from the direct utilization of otherwise unemployed or underemployed labor resources during project construction to be included as an NED benefit. This chapter provides procedural guidance in the evaluation of NED benefits resulting from increased employment of such labor resources.

(b) *Conceptual Basis.* (1) The social cost of a project is less than the market (contract) cost in situations where otherwise unemployed or underemployed labor resources are used in project construction. The opportunity cost of employing otherwise unemployed labor resources is zero because society does not give up any alternative production of goods and services by virtue of their employment in project construction. Similarly, the opportunity cost of employing otherwise underemployed labor resources equals their without project earnings, which, by virtue of their underemployment, are less than their market cost. The most straightforward way to reflect the effects of employing unemployed and underemployed labor resources would be to reduce appropriately the project construction costs in the NED account. However, since this would cause accounting difficulties in appropriations, cost allocation, and cost sharing, this adjustment is treated as a project benefit in the NED account.

(2) Conceptually, any employment of otherwise unemployed or underemployed resources, anywhere in the Nation, that results from a project represents a valid NED benefit. However, these benefits are limited under the Principles and Standards, primarily because of identification and measurement problems, to only those labor resources directly employed onsite in the physical construction of a project or portion of a project in specified regions. The Principles and Standards states that the WRC will designate planning regions that contain unemployed or underemployed labor resources. These areas are *designated* (not merely qualified) by the Economic Development Administration (EDA), U.S. Department of Commerce,[1] as eligible under Title IV of the Public Works and Economic Development Act of 1965, as amended. Only the portion of project construction activity located in a *designated* area is eligible for employment benefits as calculated in accord with the procedures specified below.

(c) *Planning Setting.* (1) *Without Project Condition.* The without project condition is defined as the most likely condition expected to exist in the future in the absence of a project or any change in law and public policy. The evaluation of NED benefits associated with the use of unemployed and underemployed labor resources is tied to the extent to which the pool of these resources would be reduced over time without a project.

(2) *With Project Condition.* The with project condition is defined as the most likely condition expected to exist in the future with a given project alternative. There is a different with project condition and thus a different employment benefit for each alternative plan. The employment benefit currently cannot be estimated directly on the basis of a comparison of the size of the pools of unemployed and underemployed labor with and without a project. Instead, as explained below, the benefit procedure implicitly projects the with and without project conditions on the basis of the percentage of the project labor hires that are estimated to come from the unemployed labor pool.

(d) *Evaluation Procedure.* (1) The evaluation procedure specified below results in a very crude estimate of this NED benefit. Adoption of more precise estimating techniques must await further development in the three following areas:

(i) Statistically significant regional data for a uniformly defined concept of unemployment;

(ii) Models that project regional unemployment over time; and

[1] Economic Development Administration, U.S. Department of Commerce. "Qualified Area Under the Public Works and Economic Development Act of 1965, As Amended." Periodic publication.

(iii) Empirically based response functions relating the probability of hiring unemployed or underemployed labor to the rate of regional unemployment.

(2) The specified procedure is conservative in two regards. First, it limits the benefit to labor directly employed in project construction. Second, it limits the benefits to those associated with labor from the WRC designated area.

(3) Since calculation of employment benefits is permitted only for that portion of project construction activity in designated areas as defined in Section 2 above, the first step is to determine whether a project is wholly or partially located in a designated area by checking the current issue of "Qualified Areas Under the Public Works and Economic Development Act of 1965, As Amended." [2] Next, the number of unemployed (skilled and unskilled) construction workers in the labor area must be estimated. Construction labor pool data are usually available from local offices of State employment security agencies.

(4) The third step is to determine the labor requirements for plan implementation as follows:

(i) *Labor Cost.* Manpower requirements of water resource projects differ widely. Construction cost estimate data will provide the percentage of labor cost to total construction contract cost. Design and administration costs, land cost, and other non-construction-related costs are to be deducted from total plan cost to arrive at construction costs.

(ii) *Manpower Requirements.* The plan's construction work force and schedule are to be analyzed to determine manpower requirements for skilled and unskilled categories of workers, over time. These data should be converted to total construction wages by skilled and unskilled categories by year of construction. In addition, the yearly wage bill associated with "white collar" workers needed on the project will be estimated. The occupational tables in Appendix A are to be used in categorizing different types of workers.

(5) Next, the annual manpower requirements of the project must be compared to the size of the unemployed labor pool in eligible areas. Where labor availability is significantly in excess of requirements, proceed to the next step. Where this is not the case, a reduction in the percentages in the next step will be made. The reduction will be based upon one or more of the following: expert interviews, a careful matchup of requirements and availability for specific job types (e.g., carpenters), consideration of male-female components of the labor force, and the extent to which the unemployment rate exceeds 4 percent.

(6) *NED Employment Benefits; Standard Method.* The following percentages were derived from "An Evaluation of the Public Works Impact Program (PWIP)." [3] While the projects studied in this report are not fully comparable to many typical water projects, the report does provide an empirical basis for relating public works expenditures to employment of unemployed workers in EDA designated areas. Case 1, below, covers situations where there is no "local hire" rule. It is taken directly from the cited reference, as the EDA Public Works program has no local hire rule. Case 2 covers situations where there is a "local hire" rule; the reference data were modified to account for an 80-percent local hire by scaling up the actual local hires (for skilled and unskilled workers to 80 percent, but retaining the distribution of local hires previously employed to local hires previously unemployed in the cited reference.

(i) *Case 1, NED Benefits.* The total wages determined by categories or workers (skilled, unskilled, and other) will be multiplied by the following percentages to obtain NED benefits by year of construction;

Skilled	30
Unskilled	47
Other	35

(ii) *Case 2, NED Benefits.* The following percentages will be applied in Case 2 situations:

Skilled	43
Unskilled	58
Other	35

Because the 80-percent local hire rule is only a goal, not a stringent requirement, use of these percentages must be supported by appropriate correspondence with experts or by other data which indicate that the local hire goal is likely to be met. Where this is unlikely, the Case 2 percentages must be reduced to numbers in between the standard Case 1 and Case 2 percentages.

(iii) *Annual NED Benefits.* The NED benefits by the year of construction will be converted to an average annual basis utilizing the appropriate rate of interest.

(7) *NED Employment Benefits; Alternative Methods.* The percentages of unemployment hires may be changed from those used in the standard method if such change can be supported by a study which empirically shows different percentages of unemployed and underemployed workers on a similar project or on a segment of the same project, for labor market conditions similar to those of the proposed project. In utilizing this method, it may be necessary to vary the categorization of construction workers used in the standard method. It is emphasized that the opinions of experts such as local State employment security agencies, local construction firms, Associations of Contractors, and labor unions cannot be substituted for empirical data. Studies used to document alternative percentages for specific types or locations of projects should be cited if not included in the project report.

(8) The percentages used in the standard method measure wages paid directly to previously unemployed and underemployed workers. Previously employed workers may vacate jobs which are then made available to unemployed workers. There are no empirical data to support a quantification of such indirect effects, and no estimates of such effects may by included in the NED account.

(9) This procedure to estimate employment benefits results in highly uncertain estimates. For this reason, these benefits shall not be used in plan formulation. Thus, employment benefits will not affect the scale and scope of projects.

(e) *Report and Display Procedures.* Employment benefits of each alternative plan will be included as a line item in the display of NED benefits in the system of accounts whenever a project or portion of a project is in an EDA designated area.

Appendix A.—Occupational Tables

Blue Collar Unskilled Occupations

Bricklayer Apprentice
Carpenter Apprentice
  Apprentice Carpenter
  Carpenter Helper
Chainman
Deck Hand
Electrician Apprentice
  Apprentice Electrician
  Apprentice Wireman
  Electrician Trainer
Iron Worker Apprentice
Laborer
  Asphalt Distributor
  Assistant Carpenter
  Bottom Laborer
  Brick Tender
  Carpenter Aid
  Carpenter Helper
  Chainsawman

[2] Ibid.

[3] Economic Development Administration, U.S. Department of Commerce. "An Evaluation of the Public works Impact Program (PWIP)." January 1975 (PB 263098).

Common Laborer
Concrete Braker
Concrete Laborer
Concrete Saw
Construction Laborer
Ditch Laborer
Drill Helper
Flag Person
Hod Carrier
Kettleman
Laborer
Laborer Apprentice 3rd
Laborer Group I
Laborer Group V
Labor Shop Man
Laborer Topman
Laborer Utilityman
Landscape Laborer
Mason Helper
Mason Laborer
Mason Tender
Mortarman
Mortarmier
Pipe Layer
Pipe Helper
Pipe Fitter
Plasterer Tender
Powderman
Pusher
Rakeman
Reboundman
Road Laborer
Roof Helper
Sand Blaster
Set-up-man
Sprinkler Apprentice
Stake Setter
Tender
Termite Operator
Tile Setter Operator
Vibrator Operator
Water Truckman
Lumberman and Nurseryman
Tree Thinner
Treeman
Treeplanter
Operating Engineer Apprentice
B. M. Apprentice
EO Group 3
EO Group 222
Plumber Apprentice
Plumber Apprentice
Plumber Helper
Painter's Helper
Sheet Metal Apprentice
Vibrator Operator
Watchman
Night Watchman
Blaster
Boilmaker
Boilmaker Foreman
Bricklayer
Block Layer
Truckpointer
Brick Mechanic
Bricklayer Foreman
Carpenter
Form Setter
Journeyman Carpenter
Soft Floor Layer
Carpenter Foreman
Carpenter Superintendent
Cement Mason
Finisher
Journeyman Finisher
Cement Mason Foreman
Diver
Driller
Drill Rig Operator
Electrician
Journeyman Electrician
Mechanical Electrician
Wireman
Journeyman Wireman
Electrical Foreman
General Foreman
General Labor Foreman
Project Foreman
Glazier
Iron Worker
Reinforcing Ironworker
Structural Ironworker
Steel Worker
Steel Erector
Steel Setter
Reinforcing Steel Worker
Iron Worker Foreman
Labor Foreman
Construction Foreman
Foreman
Job Foreman
Lead Foreman
Lather
Lather Foreman
Master Mechanic
Mechanic
Mechanic Welder
Repairman
Repairman Leadman
Oiler
Oiler Equipment Operator
Oiler Operator Group II
Oiler Track Type
Operating Engineer
Asphalt Heaterman
Backhoe Operator
Blade Operator
Bobcat Operator
Bulldozer Operator
Case Operator
Class A Operator
Class C Operator
Crane Operator
Digger Operator
Distributor Operator
Dragline Operator
Equipment Operator
Equipment Operator Group III
Front End Lift Fork Operator
Heavy Equipment Operator
Hi-Lift Operator
Lift Fork Operator
Light Equipment Operator
Loader Operator
Maintenance Loadman
Motor Grader Operator
Operator Group III
Pan Operator
Park Equipment Operator
Power Drive Moister Operator
Power Equipment Operator
Pneumatic Tire Roller Operator
Pneumatic Tractor Operator
Roller Operator
Scraper Operator
Shovel Operator
Tractor Operator
Traxeavator Operator
Trenching Machine Operator
Truck Loader Operator
Operating Engineer Foreman
Leader Operator
Painter
Brush Painter
Roller Painter
Spray Painter
Painter Foreman
Pile Driver
Pipe Fitter
Sp. box Man
Pipe Fitter Foreman
Sprinkler foreman
Plasterer
Plasterer Foreman
Plumber
Pipe layer
Plumber Foreman
Plumber General Foreman
Plumber Superintendent
Rigger Foreman
Roofer
Sheet Metal Worker
Journeyman Sheet Metal
Sheet Metal Mechanic
Sheet Metal Operator
Sheet Metal Foreman
Steam Fitter
Tile Setter
Truck Driver
Worker
Axle Truck Driver
4 Axle Truck Driver
Dump Truck Driver
Road Truck Driver
Tandem Truck Driver
Truck Driver II
Truck Driver Highway
Waterproof Foreman

Construction Occupations, Except Blue Collar

Assistant Project Coordinator
Assistant Superintendent
Bookkeeper
Civil Engineer
Civil Engineer
Grand Setter
Party Chief
Project Engineer
Project Engineer and Coordinator
Rodman
Surveyor
Transit Man
Clerk

Clerk
Accountant Clerk
Clerk Typist
Typist
Construction Superintendent
Construction Superintendent
Job Superintendent
Project Supervisor
Superintendent
Draftsman
Draftsman
Draftsman Estimator
General Superintendent
Inspector
Project Coordinator
Project Coordinator
Project Foreman
Timekeeper

§ 704.133-704.140 [Reserved]

NED Cost Evaluation Procedures

§ 704.141 Determination of national economic development (NED) costs of water esources plans.

Introduction

This section provides procedural guidance for the evaluation of NED costs for structural and nonstructural elements of Federal water resource management plans.

Conceptual Basis

(a) Resources have value through use. Achievement of project benefits requires shifts in resource use. Such shifts result in the loss of economic values associated with the uses foregone (opportunity costs). Project NED costs are estimated through an identification of the relevant opportunity costs, and an evaluation of such costs within the time frame in which they occur utilizing the project discount rate.

(b) In evaluating NED costs, resource use must be broadly defined so as to fully recognize scarcity as a component of value. This requires consideration of the direct and indirect, private and public uses which producers and consumers are currently or might be expected to make of available resources in the future.

(c) Two approaches are emphasized in this section for identifying relevant NED opportunity costs—market price and surrogate value. Market price is used to reflect the private sector value of resources required for or displaced by a project, and surrogate value—the public sector value. Total NED cost is represented by the sum of the resource's private sector and public sector values.

(1) The market price approach relies on the interaction of supply and demand. Price is determined through transactions on the margin between willing buyers and sellers, neither of whom are able to influence price by their individual decisions. Distortions in market price may occur, however, if one or more of the conditions of perfect competition are violated. Price under these circumstances reflects value within certain constraints—namely, a resource's marginal utility or value of marginal product to potential purchasers and its residual value or value in alternative uses to potential sellers.

(2) The surrogate value approach, as the term suggests, involves the approximation of market price based on an equivalent use or condition. Surrogate values are frequently used in limited markets and nonmarket situations. Generally, those methods which result from near markets or approximate monopoly pricing methods are most accurate.

Planning Setting

(d) Whereas the identification of NED costs is only relevant to project conditions, the basis for the evaluation rests in a thorough analysis of expected conditions in the future without a project. This requires an identification of those resources which potentially might be affected by a project, the current and anticipated uses of such resources, and the measurable economic worth to the Nation of those services associated with the identified uses.

Evaluation Procedure

(e) *General.* (1) Resources required for or displaced by project installation and/or OM&R activities will be subjected to an NED cost evaluation. Such evaluation will focus on an identification of the reduced economic value of the without project condition. Costs identified may be in the form of project outlays or uncompensated economic losses. Included in the category of project outlays are those expenditures needed for the realization of project benefits and the avoidance of damages (mitigation and/or compensation). Examples of uncompensated economic losses include external diseconomies of the technological type and losses of environmental services, such as recreational hunting.

(2) Implicit throughout the discussion which follows is the understanding that standard adjustments will be made in cost data to reflect the time preference value of money. Procedural aspects of such adjustments have been previously described, and therefore will not be addressed here. (See Section II-A.)

(i) *Project Outlays.* Market price will be used as the basis for the evaluation of private sector NED costs for these resources for which compensation is paid. Applicable cost items are listed below.

(A) *Construction and/or Installation Goods and Services. (1)* Cost of purchased materials.

(2) Equipment rental or ownership costs.

(3) Wages or salaries paid to construction and/or installation personnel (to be based on prevailing market wage rates).

(4) Cost of management and supervision.

(5) Other overhead costs and profit.

(B) *Construction Contingencies.* The cost differential added to construction and/or installation goods and services cost to cover unforeseen construction problems.

(C) *Engineering Services.* Costs incurred in the development of final design specifications and construction drawings.

(D) *Land, Water, and Mineral Rights. (1)* Cost of surveys incident to a sale.

(2) Legal fees and transfer costs.

(3) Purchase price or easement costs minus salvage value of improvements.

(4) Real estate taxes foregone.

(5) Severance payments.

(E) *Relocation Payments. (1)* Moving expenses for project dislocated people and businesses (excludes rent subsidies or grants to dislocated households for purposes of upgrading the quality of the dwelling).

(2) Termination payments for dislocated businesses whose owners chose to close out.

(F) *Administrative Services. (1)* Cost of inspection for construction, installation, and/or maintenance activities.

(2) Cost of administering contracts.

(3) Cost of relocation assistance advisory services.

(4) Educational costs.

(5) Overhead costs for the Federal program.

(6) Costs to local and State governments (e.g., cost to develop, implement, and administer flood plain regulations).

(ii) *Uncompensated Economic Losses:* Many uncompensated economic losses resulting from project activities are not currently evaluated from an NED standpoint. For the most part, this is due to lack of data and/or accepted evaluation methodologies. The Principles and Standards address this situation through a system of accounts in which measurable economic gains and losses are displayed against those of a noneconomic nature.

The discussion which follows is by necessity general. For ease of reference,

it has been divided into two broad categories: (A) public sector costs, and (B) private sector costs—for example, external diseconomies. Where specific procedures are not referenced, the planner is given latitude with respect to the evaluative approach. Considerable judgment should be exercised, however, in balancing the pros and cons of using relatively unproven evaluation procedures against the alternative of displaying noneconomic tradeoffs in the P&S accounts.

(A) *Public Sector Costs.* (*1*) This category of uncompensated economic losses relates to public, nonmarketed services—for example, those associated with environmental amenities. Economic values for these services are based on surrogate values. Such values are determined using procedures which are generally more complex than those required for other types of project economic evaluations. Insofar as the resources providing the service are limited in long-term supply (relatively few available substitutes), consideration of option and existence values above direct use value may be warranted.

(*2*) The basis for determination of direct use values is the willingness of resource users to pay. Opportunity costs in such cases are identified as negative benefits. Option and existence values, however, are generally determined based on the public's willingness to sell or accept compensation.

(*3*) Where applicable, NED benefit evaluation procedures contained in this manual are to be used in the evaluation of direct nonmarket service losses (i.e., recreation). Evaluation of other losses should be systematically approached based on the following three general steps:

(*i*) *Determine the Production Function of Service Attributes.* This step involves the identification of linkages between environmental parameters (i.e., type of cover and ratio of open water to cover) with those attributes which affect consumption (i.e., species composition, population, etc.).

(*ii*) *Determine the Transformation Function of Service Attributes into Goods and Services.* This step involves the identification of the relationships by which service attributes such as those described above can be transformed into consumptive goods or services to the resource user (i.e., number of skills, number of sightings of game, etc.).

(*iii*) *Evaluate the Economic Loss.* This step involves the determination of values to be assigned to the consumptive goods and services produced.

(B) *Private Sector Costs.* (*1*) This category of uncompensated economic losses consists of external diseconomies of the technological type. Such diseconomies are based on market prices and can be computed as an increase in the average cost per unit of output or as a decreased gross output multiplied by a profit coefficient representative of each firm. In those cases where these effects are obviously less than the planning cost required to evaluate them, no evaluation should be made.

(*2*) External diseconomies of the pecuniary type are reflected in negative cost and/or price adjustments induced by the project (i.e., increased cost for inputs, depressed price for outputs). Such adjustments reflect transfers from other sectors of the economy and are, therefore, not relevant for purposes of NED analysis.

(*3*) Two examples of external diseconomies of the technological type are presented below:

(*i*) *M&I Water Supply.* An M&I water supply project is being considered for development on a flowing stream. Under the plan, releases from the reservoir would provide M&I water to a pickup point approximately 5 miles downstream. Downstream flows are currently 500 cfs, but with the plan they would be reduced to 200 cfs. A small town is located downstream from the M&I intake structure. The town currently meets EPA standards for waste water treatment, but with the plan increased treatment costs would be required. Such increased costs would be considered an external diseconomy to the plan.

(*ii*) *Irrigation Water Supply.* An irrigation water supply system is recommended for construction adjacent to a river. The plan recommends that 100,000 acres of land be placed under irrigation. The plan includes the placement of a reservoir on the main river channel and the construction of channels and laterals to transport the water to the irrigated area. After the water is applied to the land, the runoff is returned to the river approximately 10 miles downstream from the reservoir. The return flow from the irrigation project creates a salinity condition for downstream water users, forcing them to adopt higher cost water treatment practices. Such adverse effects are not normally compensated for and therefore are external diseconomies.

(*b*) *Mitigation.* (1) Mitigation is any act taken for the purpose of off-setting (wholly or in part) those losses in public sector values resulting from a project. To the extent that such losses can be evaluated in economic terms, mitigation is the substitution of one opportunity cost for another. Proper analysis of NED costs in these cases requires that the economic worth of any uncompensated losses remaining after the mitigation be added to the financial cost of the mitigation itself.

(*2*) To demonstrate the point, consider a situation where installation of a project will result in the destruction of five units of stream fishery without design changes or special features to mitigate the losses. Benefits provided by the fishery to society will subsequently be lost. Panel (a) in the table below presents a set of hypothetical data reflecting the opportunity costs based on sport fishing losses, and panel (b) presents the costs required for mitigation of such losses. Costs of mitigation include NED benefits foregone as a result of project redesign, as well as the cost of project features that mitigate the fishery losses attributable to the project.

(a) Fishery losses	(b) Mitigation of fishery losses		(c) Data for economic analysis of project mitigation			
Units of unmitigated losses	Total Opportunity costs	Units mitigated	Total costs of mitigation	Marginal opportunity costs	Marginal mitigation costs	Total opp. and mit. costs
5	40	0	0	—	—	40
4	30	1	4	10	4	34
3	21	2	10	9	6	31
2	13	3	18	8	8	31
1	6	4	28	7	10	34
0	0	5	40	6	12	40

(a) Fishery losses	(b) Mitigation of fishery losses		(c) Data for economic analysis of project mitigation			
Units of unmitigated losses	Total opportunity costs	Units mitigated	Total costs of mitigation	Marginal opportunity costs	Marginal mitigation costs	Total opp. and mit. costs
5	40	0	0	—	—	40
4	30	1	4	10	4	34
3	21	2	10	9	6	31
2	13	3	18	8	8	31
1	6	4	28	7	10	34
0	0	5	40	6	12	40

(3) Examination of panel (c) in the table reveals that the NED objective would be best served by mitigating three units of fishery loss. This is because the marginal mitigation cost for each is less than or equal to its marginal opportunity cost. The NED alternative would therefore provide three units of mitigation at a total cost of 31 (18 for the mitigation and 13 for the remaining uncompensated losses). Additional mitigation could be undertaken for EQ purposes but at a corresponding loss in net NED benefits due to increasing NED costs.

(g) *Problems in Application.* Application of the procedures in this section presents few operational problems. Market prices are relatively easy to obtain. Difficulties to be expected in using NED benefit evaluation procedures for cost analysis are covered in the respective NED benefit chapters.

(h) *Data Sources.* Market price information is available through data on comparable sales; Government publications (e.g., U.S. Departments of Commerce, Agriculture, and Labor bulletins), and business reports. Data sources for those NED benefit evaluation procedures having application to cost analysis are covered in their respective chapters.

(i) *Report and Display Procedures.* NED costs identified through the above procedures will be displayed as line item entries in the adverse effects section of the NED account. The following categories will be used—(1) installation costs of structural measures, (2) installation costs of nonstructural measures, (3) OM&R and mitigation costs for each of the above categories, (4) external diseconomies, and (5) other uncompensated economic losses by type.

§§ 704.142–704.145 [Reserved]

Dated: May 15, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79-15830 Filed 5-23-79; 8:45 am]

BILLING CODE 8410-01-M

WATER RESOURCES COUNCIL

Proposed Revisions to the Principles and Standards for Planning Water and Related Land Resources; Review

1. Notice is hereby given the Water Resources Council proposes to revise and modify the Principles and Standards for Planning Water and Related Land Resources, 38 FR 29778, dated September 10, 1973, established pursuant to sec. 103 of the Water Resources Planning Act of 1965 (Pub. L. 89–80) primarily to accomplish the full integration of water conservation into project and program planning and review, and to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural project or program alternatives are considered. Additional changes are proposed to the Standards to assure consistency with the proposed procedures for benefit and cost evaluation.

2. The President directed the Water Resources Council to modify the Principles and Standards in the following respects:

(A) The Principles and Standards shall be modified to accomplish the full integration of water conservation into project and program planning and review, as a component of both the economic development and environmental quality objectives, and

(B) The Principles and Standards shall be modified to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of non-structural or demand reducing measures which could feasibly be employed or adopted to achieve the overall project purpose. Such measures should not be limited to those which the agency of the Federal Government could implement directly under present authority but should include floodplain management techniques (such as zoning), pricing, policies, groundwater recharge, and other measures.

3. Only those sections of the Principles and Standards being proposed for revison or modification are published as part of this notice. For purposes of review, the revised sections are italicized in this publication and referenced to the original Principles and Standards. Where no changes are recommended, the words (No change) appear in parentheses after the title of the section. If an entire section of the original Principles and Standards is recommended to be replaced by this draft, the words (The following section completely replaces the current section) appear in parentheses following the title of the section.

4. Following public review and comment, and necessary action by the Water Resources Council, the adopted revisions will be used for the planning of water resources projects covered in the Standards, Section I.B.2. of the Principles and Standards and of Agency for International Development, i.e., projects covered by Section 101 of Pub. L. 95–148. The revisions will apply to all levels of planning if such projects are subject to the Principles and Standards. They will be applicable to: (A) projects which may be approved by agency administrators, (B) projects requiring congressional authorization, and (C) authorized projects or separable project features of such projects not yet under construction for which agencies currently prepare post-authorization planning documents. For the purpose of implementing these revisions, a project shall be considered under construction when funds have been appropriated by the Congress or budgeted by the President for land acquisition or physical construction activity. Projects for which post-authorization planning documents are not required shall be considered under construction when authorized for construction.

5. The Secretary of each Department would retain the discretion to review those projects not under construction and, where deemed reasonable, could exempt a project from complying with these revisions or may partially exempt a project and direct expedited additional planning to more fully meet specific procedures. This discretionary authority would apply to those projects not yet authorized for which preauthorization planning is now complete or will be completed by the end of FY 1980 and those authorized projects requiring post-authorization planning if such planning is now complete or will be complete by the end of FY 1980. Preauthorizaton or post-authorization planning shall be considered complete when the appropriate planning documents have been approved by the responsible agency's field office. Such Secretarial review is proposed to ensure that adequate and reasonable discretion exists to prevent undue loss of time or expenditure of public funds in those cases where additional planning is not considered necessary. This proposed discretionary authority could not be exercised after July 31, 1981.

Authorized projects exempted from complying with the Principles and Standards would also be exempted from complying with the adopted revisions.

6. The revisions proposed in this notice will be considered for adoption by the Water Resources Council at the close of the public comment period. After modification to incorporate the results of this review, the Council will publish the revised Principles and Standards as a notice in the Federal Register.

Additionally, it is the Council's intent to undertake further review and revisions of the Principles and Standards with the objective of publishing the Principles and Standards as proposed rules and regulations. This effort will include: (A) revisions for clarity and conciseness, (B) revisions to incorporate the requirements of Urban and Community Impact Analysis and (C) revisions to integrate the requirements of the National Environmental Policy Act. A schedule for this effort will be presented to the Water Resources Council at its meeting of June 6, 1979.

7. The Water Resources Council has prepared an environmental assessment of the proposed revisions to the Principles and Standards. Copies of this assessment may be obtained from the Director, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037.

8. This notice establishes the beginning of a 60-day public review period to provide all interested parties an opportunity to comment on the proposed revisions and modifications to the Principles and Standards. During July 1979, public meetings will be held on the Principles and Standards revisions and the Manual of Procedures for Evaluating Benefits and Costs in Water Resources Planning (Level C) to solicit comments. These meetings are scheduled for Los Angeles, California; St. Louis, Missouri; and Washington, D.C, according to the following schedule:

July 10—9 a.m. to 5 p.m.

Marriot Hotel-Airport, 5855 West Century Boulevard, Los Angeles, California.

July 17—9 a.m. to 5 p.m.

Office of Personnel Management Auditorium (formerly Civil Service Commission Auditorium), 1900 E Street, NW., Washington, D.C.

July 24—9 a.m. to 5 p.m.

Mudd Law Building—First Floor Conference Room, Washington University, St. Louis, Missouri.

The amount of time for oral statements during the meetings will be limited. Anyone planning to make a statement should write or telephone and indicate which meeting will be attended and the time of day preferred:

Wanda Phelan, Public Information Officer, U.S. Water resources Council, 2120 L Street, NW., Washington, D.C. 20037, 202/254-8290.

The Council will schedule the time as closely as possible to that requested and will notify speakers as to the time alloted.

9. Comments must be received on or before July 27, 1979.

10. Comments should be addressed to the Director, U.S. Water Resources Council 2120 L Street, NW., Washington, D.C. 20037. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Lewis D. Walker, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037 (202/254-6453).

Proposed Revisions to the Principles for Planning Water and Related Land Resources

I. Purpose and Scope: (No change).

II. Objectives: Introduction (No change).

A. Beneficial Effects on National Economic Development. Beneficial effects to be displayed in the national economic development account are increases in the value of the output of goods and services and improvements in national economic efficiency resulting from a plan. These include:

a. The value to users of increased *or reallocated* outputs of goods and services; * * *

b. The value of output resulting from external economies.

B. Adverse Effects on National Economic Development (No change).

C. Beneficial and Adverse Effects on Environmental Quality (No change).

III. Other Beneficial and Adverse Effects: (No change).

IV. General Evaluation Principles:

A. General Setting (No change).

B. Measurement of Beneficial and Adverse Effects (No change).

C. Price Relationships (No change).

D. The Discount or Interest Rate (No change).

E. Consideration and Comparison of Alternatives. (The following completely replaces the current section.)

A range of possible alternatives capable of application by various levels of government and nongovernmental interests should be systematically evaluated in terms of their contributions to the national economic development and environmental quality objectives.

Water conservation shall be fully integrated into project and program planning and review as a means of achieving both the national economic development and environmental quality objectives. Water conservation consists of actions that will (a) reduce the demand for water; (b) improve efficiency in use and reduce losses and waste; and (c) improve land management practices to conserve water. A clear contrast is drawn between the above conservation elements and storage facilities.

In addition, a primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of nonstructural or demand-reducing measures which could feasibly (in light of the national economic development and environmental quality objectives) be employed or adopted to achieve the overall project purpose.

Alternatives should not be limited to those the Federal Government could implement directly under present authorities. Therefore the cooperative role of local, State, regional, and Federal organizations in implementing alternatives will be stressed. Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

F. Period of Analysis (No change).

G. Scheduling (No change).

H. Risk and Uncertainty (No change).

I. Sensitivity Analysis (No change).

J. Updating Plans (No change).

V. Plan Formulation.

Plans will be directed to the improvement in the quality of life *contributing to meeting of* current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality. These plans should be formulated to reflect national, regional, State, and local needs or problems consistent with the above two objectives.

Planning of water and land resources is a part of broader public and private planning to meet regional and local needs and to alleviate problems. Therefore, planning for water and land resources should be carefully related to other regional or local planning activities and should include active participation of all interests.

Plans for water and land resources will focus upon the specified components of the objective desired for the designated region, river basin, State, or local planning setting. There are expressed in terms of projected needs and problems identified in each planning setting.

The planning process includes the following major steps:

(1) Specify components of the objectives relevant to the planning setting;

(2) Evaluate resource capabilities and expected conditions without any plan;

(3) Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives, *including preparation of one primarily nonstructural alternative;*

(4) Analyze the differences among alternative plans which reflect different emphasis among the specified components of the objectives;

(5) Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and

(6) Select a recommended plan from among the alternative plans based upon an evaluation of the trade offs between the objectives of national economic development and environmental quality and considering, where appropriate, the effects of the plans on regional development and social well-being.

A. Specification of Components of the Objectives.

At the outset and throughout the planning process, the responsible planning organization will consult appropriate Federal, regional, State, and local groups to ascertain the components of the objectives that are significantly related to the use and management of the resources in the planning setting. These will be expressed in terms of needs and problems.

The components selected for use in formulating alternative plans should be of concern to the Nation, and the components should be those that can reasonably be expected to be substantially influenced through *the management and development alternatives (available to the planner) which may be implemented by Federal, State, or local entities.*

The components of objectives for which plans are formulated can be expected to change over time and between areas of the Nation as preferences and possibilities change and differ. These changes will be reflected in the Water Resources Council's Standards.

The objectives for which plans are formulated can also be expected to change over time as preferences and possibilities change. Changes in objectives will be accommodated only through revision of these principles.

The specified components will be defined so that meaningful alternative levels of achievement are identified. This will facilitate the formulation of alternative plans in cases where there may be technical, legislative, or administrative constraints to full achievement of objectives.

B. Evaluation of Conditions Without a Plan (No change).

C. Formulation of Alternative Plans.

The planning process involves an evaluation of alternative means, including both structural and nonstructural measures, to achieve desired effects.

Based upon identified needs and problems, alternative plans will be prepared and evaluated in the context of their contributions to the objectives. This involves comparisons between objectives, and it will be necessary to formulate alternative plans that reflect different relative emphasis between the objectives for the planning setting.

The number of alternative plans to be developed for each planning effort will depend upon complementarities or conflicts among specified components of the objectives, resource capabilities, technical possibilities, and the extent to which the design of additional alternative plans can be expected to contribute significantly to the choice of a recommended plan. Because planning staffs are limited, emphasis should be placed on examination of those alternative waters and land-use plans which may have appreciable effects on objectives.

With respect to the number of alternative plans there will be a continuing dialog among the Water Resources Council, river basin commissions, and other planning groups, emphasizing on the one hand the need for national guidelines and overview of objectives for which alternative plans are formulated, and on the other the special insights into local planning situations that field level teams may develop.

Appropriate methods and techniques for estimating beneficial and adverse effects will be used to provide reliable estimates of the consequences and feasibility of each alternative plan.

One alternative plan will be formulated in which optimum contributions are made to the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. *In addition, a primarily nonstructural plan shall be prepared and included whenever structural project or program alternatives are considered.*

Other alternative plans reflecting significant physical, technological, legal or public policy constraints or reflecting significant trade-offs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan.

(The rest of this section remains unchanged.)

D. Analysis of Alternative Plans (No change).

E. Reconsideration of Specified Components of the Objectives (No change).

F. Plan Selection.

From its analysis of alternative plans, the planning organization will select a recommended plan. The plan selected will reflect the relative importance attached to different objectives and the extent to which the two objectives can be achieved by carrying out the plan.

The recommended plan should be formulated so that beneficial and adverse effects toward objectives reflect, to the best of current understanding and knowledge, the priorities and preferences expressed by the public at all levels to be affected by the plan. A recommended plan must have net national economic development benefits unless the deficiency in net benefits for the national economic development objective is the result of benefits foregone or additional costs incurred to serve the environmental quality objective. In such cases, a plan with a less than unity benefit-cost balance may be recommended as long as the net deficit does not exceed the benefits foregone and the additional costs incurred for the environmental quality objective. A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he determines that circumstances unique to the plan formulation process warrant such exception.

In addition to the recommended plan with supporting analysis, other significant alternative plans embodying different priorities between the objectives *and in consideration of water conservation and nonstructural planning requirements,* will be presented in the planning report. Included with the presentation of alternative plans will be an analysis of trade offs among them. The trade offs will be set forth in explicit terms, including the basis for choosing the recommended plan from among the alternative plans.

VI. System of Accounts (No change).

VII. Cost Allocation, Reimbursement, and Cost Sharing (No change).

VIII. National Program for Federal and Federally Assisted Activities (No change).

IX. Implementation of Principles (No change).

X. Application and Effect (No change).

Proposed Revisions to the Standards for Planning Water and Related Land Resources

I. Purpose and Scope (No change).

II. Objectives:

A. Introduction. The Principles for Planning Water and Land Resources define the objectives of national economic development and environmental quality. These objectives provide the basis for the formulation of State, region, and river basin plans for the use of water and land resources to *contribute to meeting* forseeable short- and long-term needs and have been explicitly stated or implied in numerous congressional enactments and Executive actions. The most notable of these actions in water and related areas are summarized below.

In the Flood Control Act of 1936, the Congress declared that benefits to whomsoever they may accrue of Federal projects should exceed costs. Interpretation of this statute has resulted in development of various analytical procedures to evaluate the benefits and costs of proposed projects. These procedures have centered around a national economic efficiency analysis and were first published as "Proposed Practices for Economic Analysis of River Basin Projects" in May 1950 and revised in May 1958. Budget Bureau Circular No. A-47 was issued on December 31, 1952, informing the agencies of considerations which would guide the Bureau of the Budget in its evaluations of projects and requiring uniform data that would permit comparisons among projects.

On October 6, 1961, the President requested the Secretaries of Interior, Agriculture, Army, and Health, Education, and Welfare to review existing evaluation standards and to

recommend improvements. Their report, "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," was approved by the President on May 15, 1962, and published as Senate Document No. 97, 87th Congress, 2d Session. This document replaced Budget Bureau Circular No. A-47 and in turn has been superseded by the "Principles for Planning Water and Land Resources," upon their approval by the President, and by these "Standards for Planning Water and Land Resources."

(The following paragraph would be added to the original Standards.)

On July 12, 1978, the President directed that the Principles and Standards for Planning Water and Related Land Resources, (P&S) 38 Fed. Reg. 24778, September 10, 1973, be scrupulously adhered to in the planning, review and implementation of Federal water resources projects. Moreover, the President directed that the September 10, 1973 P&S be modified to accomplish the full integration of water conservation into project and program planning and review as a component of both the economic development and environmental quality objectives and to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural projects or program alternatives are considered. The "Principles for Planning Water and Land Resources" and these "Standards for Planning Water and Land Resources" supersede the September 10, 1973 P&S.

By enacting laws and taking actions enumerated below and others, the Congress and the President have broadened the objectives to be considered in water and land resources planning.

The two objectives as defined in the principles and set forth in more detail in these standards provide a flexible planning framework that is responsive to and can accommodate changing national needs and priorities.

The statement of the objectives and specification of their components in these standards is without implication concerning priorities to be given to them in the process of plan formulation and evaluation. These standards, nonetheless, do recognize and make provision for a systematic approach by which the general public and decisionmakers can assess the relative merits of achieving alternative levels of satisfaction to the two objectives where there may be conflict, competition, or complementarity between them. This will provide the type of information needed to improve the public decisionmaking process.

B. Major Congressional Directives (No change).

C. Relationships of Program Measures to Objectives (No change).

D. Objectives.

1. National economic development. The national economic development objective is enhanced by increasing the value of the nation's output of goods and services and improving national economic efficiency.

National economic development reflects increases in the Nation's productive output, an output which is partly reflected in a national product and income accounting framework designed to measure the continuing flows of goods and services into direct consumption or investment.

In addition, national economic development is affected by beneficial and adverse externalities stemming from normal economic production and consumption, imperfect market conditions, and changes in productivity of resource inputs due to investment. National economic development is also affected by the availability of public goods which are not accounted for in the national product and income accounting framework. Thus, the concept of national economic development is broader than that of national income and is used to measure the impact of governmental investment on the total national output. The gross national product and national income accounts do not give a complete accounting of the value of the output of final goods and services resulting from governmental investments because only government expenditures are included. This is especially true in those situations where governmental investment is required to overcome imperfections in the private market. Therefore, national economic development as defined in these standards is only partially reflected in the gross national product and national income accounting framework.

A similar situation prevails where a private investment results in the production of final public goods or externalities that are not exchanged in the market.

Components of the national economic development objective include:

a. The value of increased *or reallocated* outputs of goods and services resulting from a plan.

Development and management of water and land resources result in increased *or more efficient* production of goods and services which can be measured in terms of their value to the user. Increases in crop yields, expanding recreational use, and peaking capacity for power systems are examples of direct increases in the Nation's output which result from water and related land resources *developments and management.*

Moreover, such management often results in a change in the productivity of natural resources and the productivity of labor and capital used with these resources. Increased earnings from changes in land use, reduced disruption of economic activity due to droughts, floods and fluctuating water supplies, and removal of constraints on production through increased water supplies *or improved water management* are examples of direct increases in productivity from water and land development that contribute to national output.

Development and management of water and land resources may result in increased production from the employment of otherwise unemployed or underemployed resources, as well as contributions to increased output due to cost savings resulting in the release of resources for employment elsewhere.

b. The value of output resulting from external economies. In addition to the value of goods and services derived by users of outputs of a plan, there may be external gains to other individuals or groups.

2. Environmental Quality (No change).

E. Effects on Objectives (No change).

F. Beneficial Effects on National Economic Development. Beneficial effects in the national economic development account are the increases of the value of the output of goods and services and improvements in national economic efficiency.

1. General measurement concepts. There are two basic sources of increased output of goods and services that contribute toward enhancing national economic development. First, additional resources may be employed using normal production techniques, a, for example, in the application of irrigation water and other associated resources to land for the production of agricultural commodities or in the use of electric power and other associated resources for the production of aluminum. Second, resource productivity changes may be induced by the plan, resulting in more efficient production techniques to be used to achieve a higher level of output from the same resources or the same level of a specific output with fewer resources or the employment of otherwise unemployed or underemployed resources than would be achieved

without the plan. In the latter case, the release of productive resources which can be employed elsewhere in the economy for the production of other goods and services ultimately results in an increase in national output as a consequence of a plan.

For example, reduced use of water in irrigation through improved water management may make that saved water available to irrigate additional acreage, provide for municipal use, or satisfy in-stream flow needs for fish and wildlife without construction of additional supplies.

These two sources of increased output may apply to situations in which the plan results in the reproduction of final consumer goods or intermediate producer goods utilized by direct users; and they may also apply in situations in which firms are indirectly affected through economic interdependence with firms which utilize the intermediate producer goods from the plan.

For convenience of measurement and analysis, beneficial effects on national economic development are classified as follows:

a. The value of increased outputs of goods and services from a plan;

b. The value of output resulting from external economies caused by a plan.

In each case, with and without analysis must be applied to ascertain that with a plan there is a net increase in the production of goods and services, regardless of source, over those that would be obtained in the absence of the plan.

The general measurement standard for increases in the national output of goods and services will be the total value of the increase, where total value is defined as the willingness of users to pay for each increment of output from a plan. Such a value would be obtained if the "seller" of the output was able to apply a flexible unit price and charge each user (consumer) an individual price to capture the full value of the output to the user. This concept is illustrated in figure 1.

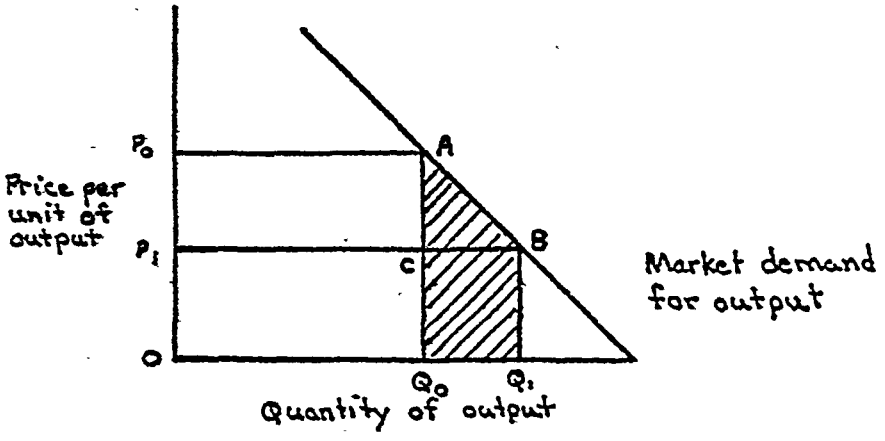

FIGURE 1.—Total value or willingness to pay for increased output.

Assuming the normal demand-output relationship, additional plan output will be taken by users as the unit price of output falls. If, as a result of the plan, output is increased by an amount Q1–Qo, the total value of this additional output to the users is measured by the entire shaded area on the chart. This is a larger amount than would be reflected by the market value. It is the sum of market price times increased quantity (represented by the rectangle CBQ^1Q^0) plus the consumer surplus for that increase (represented by the triangle ABC).

Since, in most instances, it is not possible for the planner to measure the actual demand situation, three alternative techniques can be used to obtain an estimate of the total value of the output of the plan—willingness to pay *based upon market price or simulated market price*, change in net income, and the most likely alternative.

If the additional output from a plan is not expected to have a significant effect on price, actual or simulated market prices will closely approximate the total value of the output. This is true because there would be no consumer's surplus. If the additional output is expected to significantly influence market price (as in figure 1), a price midway between that expected with and without the plan may be used to estimate the total value. This would approximate the willingness to pay, including consumer surpluses, in most cases.

When outputs of a plan are intermediate goods or services, the net income of the (producer) user may be increased. Where changes in net income of each individual user can be estimated, a close approximation of the total value of the output of the plan (including consumer surpluses) will be obtained.

The cost of the most likely alternative means of obtaining the desired output can be used to approximate total value when the willingness to pay or change in net income methods cannot be used. The cost of the most likely alternative means will generally misstate the total value of the output of a plan. This is because it merely indicates what society must pay by the next most likely alternative to accrue the output, rather than estimating the real value of the output of a plan to the users. This assumes, of course, that society would in fact undertake the alternative means. Because the planner may not be able to determine whether alternative means would be undertaken in the absence of the project, this procedure for benefit estimation must be used cautiously. *In determining the most likely alternative, the planner must give adequate consideration to nonstructural alternatives and conservation measures as well as structural alternatives.*

Application of these general measurement standards will necessarily vary, depending upon the source by which output is increased (that is, via direct increases in production or through subsequent employment of released resources), upon the type of good or service produced (whether the output is an intermediate or final good), and upon the type and nature of available

alternatives. General measurement methods for each type of situation as well as an indication of the water and land resource plan outputs to which these standards are applicable are presented below.

a. Direct output increases. Direct outputs of water and land resource plans may be in the form of either final consumer goods or intermediate goods. An effective direct or derived demand must exist for the final and intermediate goods, respectively, to include the *value of* increased output as a contribution to national economic development.

Certain consumer goods and services may result directly from water projects and be used with no additional production resulting therefrom. Recreation, municipal water, and electric power for residential use are examples of this type of goods or services. Most goods and services produced by *alternative plans* are not directly consumed, however, but are intermediate products that serve as inputs for producers of final goods or producers of other intermediate goods. The development of irrigation water for use in producing food and fiber, of supplying electric power and water for industry are examples.

The values of increased output resulting directly from plans that produce final consumer goods or services is properly measured as the willingness to pay by final users for such output. When a competitive market price is not directly available, and the increased output will not be large enough to affect prices, total value of output may be estimated by simulated market prices or the use of the cost of the most likely alternative means of producing such final output. Examples of types of outputs to which *these* methods may be applied include:

a. Community and residential water supply;

b. Electric power provided for community and residential use; and

c. Recreation enhancement.

(The rest of this section remains unchanged.)

2. Measurement of the Value to Users of Increased Outputs

a. Water supply. Plans for water supply are generally designed to satisfy requirements for water as a final good to domestic and municipal users and as an intermediate good to agricultural and industrial users. *Plan elements which* satisfy requirements in these uses generally require, either separately or in combination, an increase in water quantity, an improvement in water quality, and improvement in the reliability of both quantity and quality, *or an increase in demand.*

Where it is necessary to use alternative costs for approximation of total value for water supply, as provided herein, the alternative selected must be a likely and realistic alternative directly responsive to achievement of this particular category, namely the additional output or *more efficient use* of water as an input to industrial, agricultural, and municipal uses or as a final good for community and individual uses. Moreover, the alternative must be a viable one in terms of engineering and financing and must be institutionally acceptable. It must be more than a hypothetical project. It must be a real alternative that could and would likely be undertaken in the absence of the proposed program, for instance, the reuse or recycling of existing water supplies or the use of available groundwater, including the improvement of its quality, if necessary.

(The rest of this section remains unchanged.)

b. Flood control, land stabilazation, drainage, and related activities. A number of activities, such as flood control and prevention, flood-plain management, drainage, prevention of sedimentation, land stabilization, and erosion control, contribute to the objectives through improving the productivity, use, and attractiveness of the Nation's land resources. From the viewpoint of their contribution to national economic development, the effect of these activities on the output of goods and services is manifested by increasing the productivity of land or by reducing the costs of using the land resources, thereby releasing resources for production of goods and services elsewhere. These activities affect land resources in the following manner:

(1) Prevention or reduction of inundation arising from stream overflow, overland waterflow, high lake stages, and high tides;

(2) *Improvement of drainage;*

(3) Prevention or reduction of soil erosion, including sheet erosion, fullying, flood-plain scouring, streambank cutting, shore or beach erosion, and prevention of sedimentation; and

(4) *Reduction of use limitations on land resources.*

There are essentially three types of effects on use that may occur as a benefit from including these activities in a plan. The first is an increase in the productivity of land without a change in land use. The second is a shift of land resources to a more intensive use than would occur in the absence of a plan. The third is a shift of land resources to less intensive use that would occur in the absence of a plan. In each case, the general method of calculating benefits is applicable. The distinction is made only to facilitate the application of the general method in different settings and as a means of providing criteria for the use of alternative techniques for estimating net income changes for the three classes of land utilization under the with and without analysis.

The general method to be applied in measuring effects for these and any other activities that result in a change in net productivity or a reduction in the cost of using land resources involves the measurement of the difference in net income accruing to users of land resources benefiting from such activities compared with what these users would earn in the absence of such a plan. This generally defined and establishes the limit of the willingness of users to pay for a plan that results in a change in productivity or reduction in the cost of using land resources.

Willingness to pay of the users, which is the basis for approximating the value of output from these activities, whether it be in the form of increased production of intermediate or final goods or release of resources, may be obtained by the following approaches.

(a) Productivity increase. In this situation, analysis with and without the plan indicates that the current and future enterprises employing given land resources are essentially the same with the plan as they would be without the plan. Further, it is more profitable for the given enterprise to continue to use the given land resource even without the beneficial effect of the plan than to locate at the next most efficient location. Net income change can then be measured as the difference in net income accruing to the enterprise on the specified land resource without the plan compared with what that enterprise would receive as net income with the plan on the same land resource.

(b) Changes in land use. Two situations are covered by changes in land use. These are:

(i) The situation in which the land owner benefiting from the change in land use would only utilize the land resource affected by such activity once the plan has become operative. In other words, it would not be as profitable for the benefiting landowner to utilize the affected land resource unless improved through one of the activities in this category as compared with the next most efficient location. Without such a plan the improved enterprise would occur at an alternative location. Net

income change to the landowner will be measured as the difference in net income from the enterprise at an alternative location that be utilized without the plan compared with the net income received from the enterprises at a new location which is improved or enhanced as a result of the plan.

(ii) The situation in which enterprises that would otherwise employ a given land resource would be precluded from using the given land resources with implementation of the plan. Other enterprises less prone to incur flood damages or other adverse consequences would be allowed to use the given land resources.

Beneficial effects to the enterprises from activities in this category would be evaluated by measuring the net income change for the enterprise precluded from using the given land resources with the plan as compared with the without situation, plus the net income change for the enterprise that would be allowed to use the given land resource with the plan as compared with the without situation.

(c) Estimates of damage prevention and other measures. In the above cases, where it is not possible to directly employ net income changes to derive benefits, the estimate of actual or prospective damages to the physical properties of the enterprises involved can be employed as an approximation of net income change.

(Deleted the last two paragraphs of this section from the original P&S.)

c. Power. With respect to the computation of beneficial and adverse effects of increases in output *or more efficient use* of electric power it is emphasized that where appropriate, these should be viewed and evaluated as increments to planned or existing systems. Power supplied for general community and residential use can be considered as a final consumer good. Its value as a final good is generally reflected by the satisfaction of individual residents or in terms of improved community services and facilities. Electric power provided to industrial, commercial, and agricultural uses is viewed as an energy input to the production of goods and services from these activities resulting in an increase in the output, reduction in the cost of production, or a combination thereof. The total value of electric power to the producers using such power is reflected in their willingness to pay. Where the identification and measurement of willingness to pay and satisfactions accruing to activities using electric power for industrial, municipal, and residential purposes are not possible, total value to the users will be approximated by taking account of the cost of power from the most likely alternative source and using this as the measure of the value of the power creditable to the plan. The alternative selected must be a viable one in terms of engineering. The costs should include any required provisions for protection of the environment. However, since the addition of a hydroelectric project to an electric system in lieu of an alternative power source usually will either increase or decrease the unit cost of producing power by existing generating facilities of the system, this cost differential must be taken into account in determining the power value of the hydroelectric project.

Normally, electric power is evaluated in terms of two components—capacity and energy. The capacity value is derived from a determination of the fixed costs of the selected alternative source of supply. The energy value is determined from those costs of the alternative which relate to and vary with the energy output of the alternative plan. These capacity and energy components of power value are usually expressed in terms of dollars per kilowatt per year of dependable capacity and mills per kilowatt-hour of average annual energy.

d. Transportation (Navigation) (No change).

e. Recreation. As national living standards continue to rise, the average person, with basic needs provided for, uses an increasing percentage of rising real income to satisfy a demand for leisure time and outdoor recreational activities such as swimming, picnicking, boating, hunting, and fishing. With general ownership of automobiles and improvement in highways, travel to distant public recreational areas has become commonplace. Consequently, a large and increasing portion of recreational demand, especially that portion which is water-oriented, is accommodated by development of Federal lands and multi-purpose reservoirs which include specific provision for enhancing recreation activities. This is consistent with the requirements of the Federal Water Projects Recreation Act of 1965 (Public Law 89-72), providing for recreation and fish and wildlife as full and equal partners with all other purposes in Federal water projects.

For the most part, outdoor recreation is produced publicly and distributed in the absence of a viable market mechanism. While the private provision of recreation opportunities has been increasing in recent years, analysis of recreation needs is conducted in the absence of any substantial amount of feedback from effectively functioning markets to guide the evaluation of publicly produced recreation goods and services. Under these conditions—and based on a with and without analysis—the increase in recreation provided by a plan, since it represents a direct consumption good, may be measured or valued on the basis of simulated willingness to pay. In computing the projected recreation demand, however, the analysis should take explicit account of competition from recreation opportunities within the area of influence of the proposed plan.

There are in existence a number of methods, or approaches, to approximating demand and what people are willing to pay for outdoor recreation. A generalized methodology encompassing the travel-distance approach is set forth below.

(1) An analytical approach relating travel cost to distance. Using marginal travel costs (i.e., variable costs of automobile operation directly related to the number of miles driven) taken as a measure of what people are willing to pay for water-oriented recreation and how price affects use, the relationship between price and per capita attendance can be established for recreation sites and market areas. This relationship, the conventional demand curve having a negative slope, sums up the response of users' demand to alternative prices of the recreational product (or experience).

(Delete the rest of this section.)

(2) Other approaches (No change).

(3) Simulated prices per recreation day (No change).

f. Commercial fishing and trapping (No change).

g. Other program outputs (No change).

3. Measurement of increases in output resulting from external economies. Technological external economies are the beneficial effects on individuals, groups, or industries that may or may not benefit from the direct output of the project. They result from a plan if an increase in the output of final consumer goods or intermediate goods takes place beyond that which would be obtained in the absence of the plan and over and above direct outputs of the plan. This increased output may result from firms which are economically related to the plan taking advantage of more efficient production techniques and thereby releasing resources for use in producing other goods and services.

The change in net income of the economically related firms will be used as an indicator of the value of this type

of national economic development effect. Changes in the total value of consumer goods due to externalities because of a plan can be accounted for by using measurement techniques like those described above.

If society would obtain the project output of final consumer goods or the output of firms that utilize the intermediate goods of the project from some other source in the absence of the project, then the net income position of the related firms would be unaffected by the plan.

(Delete the rest of this section.)

4. Special beneficial effects from use of unemployed or underemployed labor resources (No change).

G. Adverse Effects on National Economic Development. Achievement of beneficial effects on national economic development, and or environmental quality, requires resources to be diverted from alternative uses. The adverse effects on national economic development are the economic value that these resources would have in their alternative uses. Generally, market prices provide a valid measure of the values of goods and services foregone in alternative uses. *Where market prices are not available, surrogate values may be used as set forth in the Manual of Procedures for Evaluating Benefits and Costs of Federal Water Resources Projects published by the Water Resources Council.*

Both public and private costs associated with the plan will be measured to indicate the total adverse effect on national economic development incurred to realize the desired objectives.

1. *Sources of adverse effects.* Water and land resource plans result in adverse effects to national economic development in two ways.

a. Resources required or displaced to produce final or intermediate goods and services. In situations where a physical structure is necessary to obtain the desired objective, the adverse effects on national economic development include all explicit cash expenditures for goods and services necessary to construct and operate a project throughout a given period of analysis *plus any uncompensated economic losses to the public sector based on applicable surrogate values. The cash expenditures* consist of actual expenditures for construction; transfers from other projects, such as costs for reservior storage; development costs; and interest during construction. If the output of the plan is an intermediate good or service, the associated costs incurred by the intermediate product user in converting it into a marketable form will be measured.

These associated costs are borne by the user of the plan output but nevertheless, represent resource requirements necessary to convert the project output into a product demand by society. Examples are production costs incurred by users of plan outputs, and costs to other producers or to processors that arise in conjunction with the physical flow of the output of the plan. Associated costs should be deducted from the value of gross outputs to obtain net beneficial effects to be compared with the national economic development adverse effects of a plan. These adverse effects occur as a result of certain resources being released and subsequently unemployed as a result of the implementation of the plan.

In situations where nonstructural measures are used to obtain the desired objective, the adverse effects on national economic development include *the uncompensated economic losses to the public sector plus* payments *for such things as the purchase of easements* or rights-of-way and cost incurred for management arrangements or to implement and enforce necessary zoning. In some cases, actual cash expenditures will not be involved as when local communities are required to furnish lands, easements, and rights-of-way.

b. Decreases in output resulting from external diseconomies (No change).

c. Cost adjustments (No change).

2. Measurement of adverse effects.

a. Resources required for or displayed by the plan. Resource requirements of the plan are the sum of (*1*) the market values of *private sector* goods and services used for installations; interest during construction; operation, maintenance, and replacement; and induced costs as *well as (2) the surrogate value of uncompensated economic losses to the public sector.*

Installation costs are the market values of goods and services necessary to implement a plan and place it in operation, including management and organizational arrangements, technical services, land, easements, rights-of-way, and water rights; initial and deferred construction; capital outlays to relocate facilities or to prevent or mitigate damages; transfers of installation costs from other projects; and all other expenditures for investigating, surveying, planning, designing, and installing a plan after its authorization.

Operation, maintenance, and replacement costs are the market values of goods and services needed to operate an installed plan and to make repairs and replacements necessary to maintain the physical features in sound operating condition during their economic life.

b. Decreases in output resulting from external diseconomies (No change).

H. Beneficial and Adverse Effects on Environmental Quality (No change).

III. Other Beneficial and Adverse Effects (No change).

IV. General Evaluation Standards:

Introduction (No change).

A. General Setting (No change).

B. Measurement of Beneficial and Adverse Effects (No change).

C. Price Relationships (No change).

D. The Discount Rate (No change).

E. Consideration and Comparison of Alternatives. (The following completely replaces the current section.)

A range of possible alternatives capable of application by various levels of government and nongovernmental interests should be systematically evaluated in terms of their contributions to national economic development and environmental quality objectives. A comprehensive range of alternatives should be evaluated toward balancing water availability over time against competing purposes.

Water conservation shall be fully integrated into project and program planning and review as a means of achieving both the national economic development and environmental quality objectives. Water conservation consists of actions that will (a) reduce the demand for water; (b) improve efficiency in use and reduce losses and waste; and (c) improve land management practices to conserve water. A clear contrast is drawn between the above conservation elements and storage facilities.

In addition, a primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of nonstructural or demand-reducing measures which could feasibly (in light of the national economic development and environmental quality objectives) be employed or adopted to achieve the overall project purpose.

Nonstructural measures are complete or partial alternatives to the traditional structural measures in addressing water resources problems and needs. The ideal nonstructural alternative is the least cost, implementable modification in public policy, management practice alteration, regulatory change or pricing policy modification which would bring marginal social benefits and marginal social costs for each project output into equality. The two objectives of national

economic development and environmental quality are to serve as the basis for the measurement of social costs and benefits.

The assessment of nonstructural measures as alternatives to traditional structural measures should be considered for all water resources planning purposes including water supply, flood control, power, transportation, recreation, fish and wildlife, and other purposes. Nonstructural measures may require less capital investment and may produce less adverse impacts than traditional structural measures.

A nonstructural measure (or measures) may in some cases offer a complete alternative to a traditional structural measure (or measures). In other cases, a nonstructural measure (or measures) may be combined with fewer and/or smaller traditional structural measures to produce a complete alternative. It may at times be necessary to combine structural and nonstructural measures to formulate alternative plans for attainment of the planning objectives.

A "primarily nonstructural plan" is an alternative plan which makes maximum feasible use of nonstructural measures as a means of addressing water resources problems and needs. The determination of maximum feasible use will be based upon the maximum possible use of nonstructural measures which contribute to the national Economic Development objective and/or the Environmental Quality objective and which meet the tests of acceptability, effectiveness, efficiency and completeness.

Alternatives should not be limited to theose the Federal Government could implement directly under present authorities. Therefore the cooperative role of local, State, regional, and Federal organizations in implementing alternatives will be stressed. Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

The alternative non-Federal plan that would likely be physically displaced or economically precluded with development of the Federal plan, or increments thereto, will be evaluated for purposes of this determination on a comparable basis with the proposed Federal plan with respect to their beneficial and adverse effects on the objectives, including the treatment of national economic development effects and the discount rate used in the evaluation. Taxes foregone on the proposed Federal plan and taxes paid on the non-Federal alternative will be excluded in such comparisons for the evaluation of the national economic development objective.

F. Period of Analysis (No change).

G. Scheduling. Plans should be scheduled for implementation in relation to needs so that desired beneficial effects are achieved effectively. Beneficial and adverse effects occurring according to different patterns in time are affected differently by the discount process when plans are scheduled for implementation at alternative future times. Therefore, plan formulation should analyze the alternative schedules of implementation to identify the schedule that would result in the most desirable mix of contributions to the objectives when the beneficial and adverse effects of a plan are appropriately discounted.

While beneficial and adverse effects toward the objectives will accrue over different time frames for the alternative implementation schedules, the *discounted* equivalent of such beneficial and adverse effects to be considered in the comparison of the alternative implementation schedules should represent the present value of the beneficial and adverse effects toward the objectives for each alternative implementation schedule at a common point in time.

H. Risk and Uncertainty (No change).

I. Sensitivity Analysis (No change).

J. Updating Plans (No change).

V. Plan Formulation. As set forth in principles, the formulation of plans will *contribute to* meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality.

1. Major steps in plan formulation. Plan formulation is a series of steps starting with the identification of needs and problems and culminating in a recommended plan of action. The process involves an orderly and systematic approach to making determinations and decisions at each step so that the interested public and decisionmakers in the planning organization can be fully aware of the basic assumptions employed, the data and information analyzed, the reasons and relationales used, and the full range of implications of each alternative plan of action. This process should be described in enough detail in the report of the study so that it may be replicated by others.

The plan formulation process consists of the following major steps:

1. Specify components of the objectives relevant to the planning setting;

2. Evaluate resource capabilities and expected conditions without any plan;

3. Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives, *including preparation of one primarily nonstructural alternative;*

4. Analyze the differences among alternative plans to show tradeoffs among the specified components of the objectives;

5. Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and

6. Select a recommended plan from among the alternatives based upon an evaluation of the tradeoffs between the objectives of national economic development and environmental quality. (The rest of this section remains unchanged.)

2. Levels of Planning (No change).

B. Specification of Components: Introduction (No change).

1. National economic development. For the national economic development objective, the components will usually be expressed at two levels.

a. The first level directly relates to the objective in the sense of the specification of the actual outputs of goods and services desired. Hence, the first level of specified components of this objective will generally be depicted in terms of increased *or reallocated* outputs of goods and services or their more efficient production such as the following:

(1) Increased or more efficient output of food and fiber;

(2) Increased or more efficient output of recreational services, *and efficient use of facilities;*

(3) Increased or more efficient production *and use* of energy;

(4) Increased or more efficient production *and use* of transportation services;

(5) Increased productivity of land for residential, agricultural, commercial, and industrial activities;

(6) Increased or more efficient *production and use* of necessary public services such as municipal and domestic water supply; and

(7) Increased or more efficient industrial output.

b. The second level of specification of the components of the national economic development objective follows from the translation of the first level specification of needs for goods and services into specific needs for water and land resources. In the context of the above, the second level specification of components would be established in terms such as the following:

(1) Water and land *used in* irrigation;

(2) *Expanded opportunities for diversified* water and land related *recreational activities;*

(3) *Balancing energy use with production capacity;*

(4) Inland navigation or deep draft harbor *facilities in the context of total transportation needs;*

(5) *Reduction of flood hazard;*

(6) *Balancing water use with supply for domestic, industrial and municipal purposes; and*

(7) *Instream flow needs.* (The rest of the section remains unchanged.)

2. Environmental quality (No change).

3. Participation (No change).

4. Projected conditions (No change).

5. Sensitivity tests (No change).

6. Preferences. The specification of the components of the objectives must reflect the specific effects that are desired by groups and individuals of the planning area as well as the specific components declared to be in the national interest by the Congress or by the executive branch through the Water Resources Council. In this way the components of objectives will reflect local, State, and national preferences and priorities as well as the extent of complementarity and conflict among components.

In this regard, the identification and detailing of the components of the objectives should be viewed as the process of making explicit the range of preferences and desires of those affected by resource development in terms of reference that can form the basis for the formulation of plans. Rather than a single level of achievement being set forth for any specified component, a range of possible levels should set forth so that the relevant preferences can be seen for a given component. It should be anticipated that the initial specification of components will be modified (expanded or reduced) during subsequent steps in plan formulation to reflect the capability of alternative plans to *contribute to satisfaction of* component needs and to reflect technical, legislative, or administrative constraints.

C. Evaluation of Resource Capabilities. In very broad terms, the first step of specification of the components of objectives can be viewed as establishing the boundaries of demand (needs or problems) in the context of each objective. In the next step, evaluation of resource capabilities, the initial evaluation is made of the supply (availability) of the resources that can be employed to satisfy the current and future levels of demand. *Also considered are conservation measures that can alter future demand.*

Resources of the planning area shall be evaluated in terms of their ability to meet the current and projected demands identified for each component under two sets of conditions:

(1) Capability of resources without any planned action; and

(2) Capability of water and land productivity enhanced through management plans. An analysis of the capability of resources to meet the projected demands without any planned action will reveal the extent and magnitude of unsatisfied component needs and indicate the requirement for some specific plan of action to assure their satisfaction. To the extent that the water and land resources without any planned action are unable to meet current and projected needs or to the extent that resource management enables the needs to be met more efficiently, there is an evident justification for formulating alternative plans *to balance water available and water demanded for alternative uses.*

In this formulation step, the first task is to undertake a selective inventory of the quantity and characteristics of water and land resources of the planning area and an appraisal of opportunities for further use of these resources. Problems limiting the use of resources should also be identified.

The resources inventory should include data on all physical factors appropriate to the investigation. Examples of the type of information needed include:

1. Hydrologic data such as rainfall and runoff characteristics, frequencies of high and low flows, *the conjunctive relationship* of groundwater *with surface water including,* natural lakes, marshes, and estuaries;

2. Water quality data, including dissolved oxygen temperature, turbidity, and mineralization;

3. Geology and topography of the planning area; (The rest of this section remains unchanged.)

D. Formulation of Alternative Plans. In the first two steps in the plan formulation process, the components of the objectives were specified in terms of needs and problems, the resource capability within the planning areas were evaluated, and the broad outlines of management, development, and other actions were identified. The next step is to undertake the actual design and scaling of alternative plans.

Ideally, in the presence of a situation where there are few or no constraints on planning and where the components of the objectives are essentially complementary (the satisfaction of one component need does not preclude the satisfaction of the other component needs), the formulation of a single plan would be sufficient. The only test required would be that the plan was the most efficient plan to satisfy the specified level of component needs. Although in only a few instances will this situation occur, the case does help to establish the guidelines and criteria to judge the range of alternative plans that should be formulated and the tests to be applied in formulating any given plan.

The requirement for the formulation of alternative plans derives from the basic characteristics of the approach when more than one objective is involved. First, instead of the component needs of the two objectives being complementary, it is more likely they will be in conflict—the satisfaction of one will reduce the satisfaction of others. Second, given uncertainty with respect to future economic and demographic changes and the general uncertainty with respect to future preferences for the environmental quality objective, a single specified level of achievement or need satisfaction for any given component is not likely to be acceptable through time. Other factors contributing to the necessity for formulation of alternative plans include limited resources, technical planning constraints, and legal and administrative constraints.

(The following paragraph should be added to the original P&S.)

In formulating plans to meet the components of the two objectives, both structural and nonstructural measures shall be considered. A nonstructural measure (or measures) may in some cases offer a complete alternative to a traditional structural measure (or measures). In other cases, a nonstructural measure (or measures) may be combined with structural measures to formulate alternative plans that attain the planning objectives.

Suggestions as to the determination of the general nature and types of alternative plans which should be formulated and the number of alternatives which should be developed

within each general type are given below.

A first requirement is to determine the general types of alternatives to be developed under alternative assumptions concerning the level and magnitude of component needs in the future. Given alternative assumptions concerning future economic and demographic trends for the planning setting and the total range of component needs related thereto, a set of alternative plans should be prepared for each major assumption concerning the future. In those planning situations where there does not exist a strong linkage between water and land development and major shifts in economic and demographic trends, the Council's baseline projections will generally be used as a single set of assumptions about the future level of component needs required. Where the linkage is sufficiently strong so that water and land development may materially alter future economic or demographic trends, this relation should be reflected in alternative assumptions. Where the planning area may be unusually susceptible to other factors that could easily change in the future, it will be appropriate to establish a basis for a different set of alternative plans based on alternative assumptions concerning future change. In this instance, a sensitivity check should be made to ascertain the extent to which component needs will vary significantly given different assumptions concerning the future. If no significant variation is found, only one set of alternative plans will have to be developed.

Within a given set of assumptions concerning future change and the component needs associated thereto, the number and types of alternative plans to be developed will be determined by applying the following:

1. On a first approximation basis array component needs that are essentially complementary—that is, the satisfaction of one of these component needs does not preclude satisfaction of the other component needs or does not result in materially adding to the cost of satisfying the other component needs in the array; and

2. From the above approximation, it should be possible to group component needs and the elements of a plan to satisfy those needs that are essentially in harmony, each set representing the nucleus for an alternative plan.

At this step, relevant alternative means of meeting each of the component needs to be included in an alternative plan should be identified. All relevant means should be considered. An analysis should be made for each alternative means, including an identification of the beneficial and adverse consequences to other component needs. The assembly of information on alternative means of meeting the component needs will provide a basis for selecting the most effective means, or combination of means of *contributing to satisfaction of* all component needs.

The significance of this step is threefold: (1) It provides information on the effectiveness of alternative means of *contributing to satisfaction of* a component need; (2) it provides information on the extent of complementarity or conflict among component needs in relation to a particular means; and (3) it provides a basis for selecting alternative means for *contributing to satisfaction of* of a component need in the formulation of an alternative plan.

At this point, it should be posssible to formulate alternative plans built upon the set of complementary component needs and plan elements. These essentially are the building blocks for the formulation of alternative plans. In formulating a given alternative plan, initial consideration will be given to its orientation toward *contributing to* the component needs for one of the objectives. Further additions should be made for the component needs of the other objective, provided that their addition to a given plan does not significantly diminish the contributions of the overall plan to that objective toward which the plan is oriented. An analysis of the alternative plan, in terms of beneficial and adverse effects, will reveal the extent of any shortfalls against the other objective. The process is then reported until sufficient numbers of alternative plans have been formulated so that there is at least one plan that generally satisfies each specified component need of the objectives. This does not mean that there must be a plan for each objective that excludes plan elements that singificantly contribute to the component needs of the other objective nor does it mean that a given alternative plan cannot appropriately satisfy the component needs of both objectives. Additional alternative plans may be required where there are possible conflicts among the component needs within a given objective.

A precise number of alternative plans cannot be specified in advance but will be governed by the relevancy of the objectives to a given planning setting, the extent of component needs and their complementarity, the available alternative means, and the overall resource capabilities of the area under study.

A comprehensive range of alternative projects, programs and policies which, over time can balance water demanded for alternative purposes with water availability should be evaluated. An evaluation of alternatives should be considered in all water resources planning to serve needs including: water supply for municipal, industrial, and agricultural uses; recreation; hydroelectric power; navigation; flood hazard reduction; fish and wildlife; and others. Both nonstructural and structural alternatives should be considered. Structural alternatives may serve a single need or multiple needs and include dams, reservoirs, levees, channels, dikes (and drainage).

Nonstructural alternatives for municipal and industrial water supply include, but are not limited to:

(a) Reducing the level and/or altering the time pattern of demand by metering, leak detection and repair rate structure changes, regulations on use such as plumbing codes, education programs, drought contingency planning;

(b) Modifying management of existing water development and supplies by recycling, reuse, pressure reduction; and

(c) Increasing upstream watershed management and conjunctive utilization of ground and surface waters.

Nonstructural alternatives for irrigation water supply include, but are not limited to:

(a) Reducing the level and/or altering the time pattern of use through irrigation scheduling, modified water rate structures, leak detection and repair, recycling, and reuse;

(b) Modifying management of existing water development and supplies by tailway recovery and phreatophyte control.

Nonstructural alternatives for recreation and fish and wildlife include, but are not limited to, enhanced management of existing sites, and capacity management to distribute users of existing sites.

Nonstructural alternatives for hydroelectric power include, but are not limited to:

Reducing the level and/or time pattern of demand by time of day pricing, educational programs, inter-regional power transfers, and increased transmission efficiency.

Nonstructural alternatives for navigation include, but are not limited to, lockage charges to reduce congestion, improved scheduling of lock arrivals, use of switch boats for locking through tows.

Nonstructural alternatives for flood hazard reduction include, but are not limited to:

(a) reducing susceptibility to flood damage by land use regulations, redevelopment and relocation policies, disaster preparedness, flood proofing, flood forecasting and warning systems, flood plain information;

(b) Reducing the adverse burden of flooding by flood insurance and flood emergency relief programs,

(c) On site detention of flood waters by protection of natural storage areas such as wetlands and in man-made areas such as building roofs and parking lots.

To facilitate comparisons and tradeoffs among alternative plans and comparisons of beneficial and adverse effects measured in non-monetary terms with beneficial and adverse effects measured in monetary terms, one alternative plan should be formulated in which optimum contributions are made to the component needs of the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. *In addition, a primarily nonstructural plan shall be prepared and included whenever structural project or program alternatives are considered.* Other alternative plans reflecting significant tradeoffs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan.

In formulating alternative plans, tests of acceptability, effectiveness, efficiency, and completeness should be applied.

The acceptability test refers to the workability and viability of the plan in the sense of acceptance of the public and compatibility within known institutional constraints.

The effectiveness test refers to performance of the plan and the level of contribution to the components of the objectives.

(The remainder of this section is unchanged.)

E. Analysis of Alternative Plans (No change).

F. Reconsideration of Components and Alternative Plans (No Change).

G. Plan Selection (No change).

VI. Systems of Accounts (No change).

VII. Cost Allocation, Reimbursement, and Cost Sharing (No change).

VIII. National Program for Federal and Federally Assisted Activities (No change).

IX. Coordination and Review of Planning Studies (No change).

Dated: May 15, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79-15831 Filed 5-23-79; 8:45 am]

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Thursday
May 24, 1979

Part III

Department of Housing and Urban Development

Office of the Secretary

Community Development Block Grant Programs; Environmental Review Procedures

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 58

[Docket No. R-79-572]

Environmental Review Procedures; Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: These amended regulations implement Section 104(h), Title I, of the Housing and Community Development Act of 1974 (Pub. L. 93-383, 42 U.S.C. 5301), as amended. The purpose of Part 58 is to set forth the regulations governing environmental review procedures to be undertaken by applicants for funds under the Community Development Block Grant Program. These regulations have been amended to reflect changes and additions to the environmental review responsibilities of applicants resulting from new legislation, executive orders and implementing regulations. In addition, the amendments clarify and reinforce the full authority and total responsibility of the applicant for decisionmaking and compliance with the National Environmental Policy Act of 1969, and with the related authorities expressly cited in these final rules. These amendments are also designed to simplify and expedite the authorized procedure and otherwise improve the quality of the environmental reviews performed by applicants on the basis of the operating experience gained in working with the process since the first publication of the regulation on January 7, 1975.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; telephone: 202/755-6306.

SUPPLEMENTARY INFORMATION:

Background

On September 19, 1978, the Department of Housing and Urban Development published in the Federal Register proposed revisions and amendments to the existing regulations of Part 58 governing the environmental review responsibilities and procedures for the Community Development Block Grant (CDBG) Program, and invited public comments for a 30-day period. Generally based on the operational experience with the environmental review procedure since its inception in 1975, the proposed revisions and amendments were the result of public comments in response to an advance notice of propose rulemaking published in the Federal Register on May 16, 1977. The revised procedure also took into account the recommendations from the environmental staff of HUD; the findings and conclusions from audits carried out within the past four years by the HUD Inspector General's Office and the General Accounting Office (GAO); and the conclusions of the May 1977 report by the Council on Environmental Quality (CEQ) on "Community Development Block Grants and National Environmental Policy Act (NEPA)."

Some 93 responses have been received from the government and private sectors as a result of HUD's invitiation. Altogether there were approximately 500 comments from 48 cities and towns, 13 county governments and area-wide entities, and 3 state governments ant trust territories. Three Federal agencies and 12 HUD regional and area offices contributed to this effort as did the private sector with 14 responses from neighborhood service organizations, national professional associations and professional consultants from the environmental disciplines. HUD has considered the information and suggestions provided in the commentary, taking into account the particular positions and concerns, favorable and unfavorable, relative to the revisions and amendments proposed in September 1978. Technical and operational suggestions from Federal agencies and from the HUD regional and area offices were also reviewed. As a result, the Department is publishing these final amendments to its existing regulations, reflecting a number of changes based on the overall review and evaluation of the commentary received.

HUD Actions on Substantive Comments

Summary

The flow of the environmental review procedure delineated in the 1975 regulations remains unchanged in the final amendments. In response to expressed concerns and consensus of principal comments on the September 1978 revisions and amendments, the following actions have been taken and are reflected in the Final Amendments:

1. Deletion of the proposed changes to the existing procedure which would have required the use of HUD formats or the approval of HUD for other formats proposed by CDBG applicants;
2. Deletion of the provisions §§ 58.27(c) and 58.31(e)) in the proposed amendments of 1978 which would have had HUD assume approval, authority and extend the Department's responsibility to include its own objections on substantive environmental grounds in addition to the procedural objections that HUD may currently raise pursuant to the Part 58 regulations of 1975 now in effect;
3. Further clarification of the circumstances when prior environmental reviews can be used, removing the present imbalance of the proposed amendments of September 1978 toward the re-use of environmental impact statements and providing, in the final amendments, for the use of prior reviews with lower level findings of no significant effect on the environment;
4. Adoption in the final rules of an expanded list of additional activities and projects to be exempted from the environmental review requirements but not necessarily exempt from compliance with other statutory requirements as revised and updated in the final amendments;
5. Based also on the favorable comments received by HUD, adoption in the final rules of the variable thresholds developed in the 1978 proposed amendments to replace the fixed single threshold of the existing regulation and to establish an equivalent system for water and sewer thresholds;
6. Definition in the final rules of a new emphasis on early and comprehensive environmental reviews to be undertaken by CDBG applicants, preferably at the project application stage and in the development of three year CDBG Community Development and Housing Plan. This emphasis in the 1978 amendments was in the form of policy statements on timing, aggregation and cumulative impacts. Due note has been made of operational difficulties and the need for additional guidance noted in the commentary which welcomed the new provisions; and
7. Adoption of the proposed revisions and amendments which were widely supported in the commentary received and are generally designed to expedite the flow of the environmental review procedure, or to alleviate the environmental review workload of CDBG applicants. Included in the Final Amendments are the changes which:

—Define all time period requirements in term of calendar days and clarify the

effective date which initiates the time requirement of a review action;

—Provide for the concurrent publications of the notice of findings of no significant effect and the notice of intent to request release of funds. The allowed use of equivalent formats by the applicant (see 1 above) may allow the combination of the two notices into one published notice as was requested by a substantial number of respondents;

—Delegate the authority and accountability for environmental review functions and responsibilities including signature authority to a "Certifying Officer" who may be the chief executive or another legally designated officer of the applicant.

Use of Hud Formats or Equivalent

(Section 58.11 and 58.15, 58.16, 58.17, 58.30)

Sections 58.11 had been revised by HUD, in the proposed amendments of September 1978, to require that applicants use the formats contained in HUD-399-CPD, Environmental Reviews at the Community Level, or other formats acceptable to HUD. The use of the HUD formats would have eliminated the need for the detailed specifications of the contents required in the existing regulations for the documentation of a project's environmental review record. Accordingly, the provisions of § 58.11 in the existing regulations would have been deleted. The purpose of the new requirements was not to create an additional approval checkpoint in the general flow of the environmental review procedure but to devise a discretionary measure which might prevent recurring patterns of defects, omissions and lack of uniformity in environmental review records observed during the past years of the CDBG program experience.

Nature of the Comments

Approximately 30 comments were addressed to this proposed change in 23 responses from 11 cities, one county, two state agencies, two HUD field offices and eight responses from the private sector. This commentary indicated a general concern with the following:

1. Rather than the intended discretionary measure, the proposed requirement could become an additional approval checkpoint requiring its own set of procedures for submittal, review and compliance of alternative formats proposed by applicants;

2. The revised requirement would be counter-productive to the stated intent of the overall amendments, delaying the environmental review procedure instead of expediting it, and adding to the workload of the applicants as well as of HUD rather than alleviating it;

3. The proposed change would not take into account the efforts made by applicants to develop formats more suited to their particular conditions; penalizing them for an initiative which, instead, should have been encouraged by HUD in view of the shortcomings of the HUD formats to which most of the comments were addressed in anticipation of HUD's retention of the requirement for the use of its formats.

4. Revisions to Format I were suggested by the commentators to remedy its shortcomings, noting in particular:

—The inadequate coverage of cited applicable authorities many of which would require their own checklist. One city, objecting to the extended procedure for historic preservation compliance, noted the inconsistencies of HUD Format I with the requirements of 36 CFR Part 800;

—The inapplicability of Format I to most Block Grant projects, to the special conditions of the small city applicants and to precedent setting cases or in environmentally controversial situations; and,

—Other technical shortcomings, omissions and redundancies of the present format.

5. The commentary further noted that the proposed requirement for the use of HUD formats by reference suggests their issuance as a proposed regulation with provisions for further public consultation and comment. Related to this was the need expressed for including in the regulations the standards that would be used by HUD in judging the adequacy or inadequacy of the alternative formats proposed by applicants.

HUD Action on Comments

In response to the concerns expressed in the above commentary, HUD reconsidered the amendments it had proposed in September 1978 prescibing the required use of HUD formats and implying an approval process for other formats proposed by CDBG applicants.

Section 58.11 of the existing regulations is retained in the Final Amendments to Part 58 but revised to provide for the optional use of the HUD formats contained in HUD-399-CPD or equivalent formats of the applicant without requiring approval by HUD and leaving to applicants the responsibility for the documentation of compliance with the environmental review requirements of NEPA and Part 58.

Sections 58.15, 58.16, 58.17 and 58.30 have been revised accordingly to reflect this optional use of HUD formats or equivalent formats of the applicant for the other environmental review documents also contained in HUD-399-CPD for Findings of No Significant Effect on the Environment (Format VI), Notices of Intent to Request Release of Funds (Format VII) and Notice of Intent to file an Environmental Impact Statement (Format V).

In addition, the detailed specification for the Environmental Review Record requirements of § 58.11 have been revised and updated to provide for the ERR coverage of the applicant's compliance with applicable statutory authorities newly cited in § 58.1(a)(3). Two new subsections have been added to § 58.11.

—58.11(n) relative to the documented compliance, when applicable, with Executive Order 11988 on floodplain management and Executive Order 11990 on the protection of wetlands including the notices required by § 58.23; and,

—58.11(o) emphasizing the required documentation with applicable authorities cited in § 58.5(a).

In a related action, HUD is undertaking a general revision of Format I contained in HUD-399-CPD. This action will take into account the commentary's expressed need for having HUD format models as guides for compliance with the environmental review requirements of Part 58, and the acknowledged usefulness of a consistent and uniform format in the flow of the environmental review proceedings and for public review. The forthcoming revisions to HUD Format I will seek to correct the shortcomings noted in the commentary and in the findings of audits and reviews evaluating the operational experience of the first three years of the program.

Role of HUD in Environmental Review at the Community Level

(Section 58.27(c), 58.31 and 58.17)

In the proposed amendments of 1978, a new subsection was added to § 58.27 of the existing regulations. The new provisions described HUD's role in commenting or otherwise responding to the environmental review process of applicants. They further specified that HUD could notify an applicant of defects in its environmental actions, make recommendations for correction and advise the applicant that its request for release of funds and certification might be rejected by HUD, unless the defects were remedied to HUD's satisfaction.

Accordingly, in § 58.31, the permissible bases for HUD's objections to release of funds were expanded to include HUD initiated objections relative to an applicant's defective environmental review process or to projects considered by HUD to be environmentally unsound. Similarly, the proposed amendments provided for the receipt and review of environmental reviews (§ 58.16) and environmental impact statements (§ 58.17) in the same manner as for other Federal agencies.

Nature of the Comments

With the exception of the favorable response from certain neighborhood service organizations and Federal agencies, a substantial number of comments from 62 responses are critical of the proposed expansion of HUD's role as a reviewing and commenting agency with approval authority over environmental reviews of applicants. The consensus of the objections cites operational difficulties and issues that such a role would entail. Five respondents suggest better alternative approaches that could be used by HUD to achieve its objective and improve the quality of environmental reviews. However, the principal challenge to the increased HUD role is addressed to the one fundamental issue relative to the apparent conflict of this expanded role with the delegation of the legal liabilities and responsibilities to the applicant while withholding the decisionmaking authority.

All but five respondents were critical of the proposed addition to the regulation of § 58.27(c) describing the HUD role. Twenty-one comments noted in particular that the assumption of the review responsibility by the Department would be in conflict with the delegation of this authority to local units of government under Section 104(h) of Title I of the Housing and Community Development Act of 1974. They noted further that it would be inconsistent with the intent of the CDBG program. Objections were raised against what was considered as a "veto" power by HUD taking the decisionmaking away from localities. Doubt was also expressed as to the capability of HUD to effectively carry out such a role.

In voicing their objections, some respondents suggested nonregulatory and post approval intervention by HUD as a better alternative for improving the quality of environmental review (five respondents). Other methods also suggested included the current emphasis on comprehensive environmental reviews and reinforcing the role of citizen participation. It was further suggested that HUD assist the applicant in the performance of comprehensive environmental reviews of programs, projects and activities beyond the normal competence, jurisdiction and control of an applicant acting alone and to ensure the cooperation of other private and public agencies. Another important alternative suggested by the commentary was that HUD should provide policy guidance and technical assistance in the development and adoption of effective project management procedures including project inspection, monitoring and enforcement programs for approved projects.

Twenty one (21) of the 24 responses addressed to § 58.31 objected to the provisions of paragraph (e) which expanded the permissible bases for objection to include HUD initiated objections, on environmental grounds, to the release of CDBG funds to applicants with inadequate environmental reviews. As noted in the commentary relative to HUD formats, the standards used by HUD in evaluating the environmental reviews should be expressly stated in the regulations.

HUD Action in Final Rule

In response to the commentary received, HUD has reconsidered the proposed amendments and revisions which would have expanded its role in the environmental review procedure of the Block Grant program. In the Final rules of Part 58, the applicant retains the environmental review and decisionmaking responsibility for compliance with the requirements under NEPA and the other applicable cited authorities of § 58.1(a)(3) as revised. The Final Amendments reflect therefore changes to the proposed revisions and amendments of September 1978 which are as follows:

Section 58.27—Deletion of paragraph (c) which provided for the expanded review role of HUD as a commenting agency with the right to approve or determine the adequacy or inadequacy of an applicant's environmental review process and findings.

Section 58.31—Deletion of the paragraph (e) relative to the HUD initiated objections to release of funds and the references to it made in § 58.30. The permissible bases for HUD objections shall therefore be limited to those raised on procedural grounds as currently provided in the existing Part 58 regulations of 1975 and retained in § 58.31(b). When major objections are raised by other Federal agencies on an applicant's final EIS on substantive environmental issues, paragraphs (c) and (b)(7)(ii) require that such objections and issues be reviewed and resolved through direct consultations between the objecting Federal agency and the applicant. A new § 58.31(b)(7) provides for the exceptional cases when, after such consultations, particularly critical substantive or controversial issues remain unresolved in the applicant's final EIS. In such cases, the matter shall then be referred to the CEQ in accordance with current NEPA requirements and those in this section, pursuant to Section 309 of the Air Quality Act.

Due note was made by HUD of the alternatives suggested in the commentary relative to post-review functions of HUD in monitoring, guidance and technical assistance.

Use of Prior Environmental Reviews

(Section 58.19)

In the proposed revisions and amendments of 1978, § 58.19 had been retitled and amended to cover various circumstances when, in consideration of a proposed project level action, a prior environmental review may be used. The conditions under which a prior Environmental Impact Statement may be used in lieu of a new EIS were completely rewritten and moved from § 58.19(c) to § 58.19(b). The new subsection is consistent with proposed HUD environmental regulations applicable to programs other than CDBG.

Nature of the Comments

There was near unanimity in the commentary (15 of the 17 respondents) that § 58.19, as proposed, was almost entirely concerned with the use of prior environmental impact statements; subsections (a) and (b) being addressed to activities requiring an EIS while subsection (c) covered those cases where a prior EIS was considered inadequate. Only in this latter subsection is there a reference to environmental reviews with lower level findings but in the limited context of projects in which no environmental review had been completed. It was the sense of the comments that prior environmental reviews and findings of no significant effect should be specifically addressed in this section.

HUD Action on the Final Amendments

In response to the comments, § 58.19 has been revised to provide for the re-use of environmental reviews with findings of no significant effect. Due note was made of the questions raised in the commentary concerning the

apparent permanence of environmental reviews and on the re-use of environmental impact statement for projects funded by sources other than the CDBG program. Paragraph (b) of § 58.19 provides for the re-use of all final environmental impact statements that have been listed in the Federal Register if they comply with the conditions specified in that section including a five year limitation for such re-use (subparagraph (3)(i)).

Exemption of Activities From Environmental Review

(Section 58.21)

Studies by CEQ, GAO, and HUD indicate that certain kinds of eligible block grant activities do not significantly affect the quality of the human environment. Therefore, HUD proposed to alter the current regulations which require the block grant applicant to complete the requirements of Part 58, including the time periods for comments and the release of funds, for all activities not specifically exempted in the statute. The proposed revision and amendment of September 1978 expanded the list of eligible block grant activities and projects exempt from environmental review requirements, but not necessarily exempt from compliance with other statutory requirements.

Nature of Comments

Forty-two responses containing approximately 60 comments were received.

a. Twenty-six of the forty-two respondents expressly stated their agreement and support for the expanded list of exempt activities in this section and suggested additional activities that could be exempted and further changes.

b. Dissenting opinions included four respondents who objected to one or more activities proposed for exempt status. A fifth respondent suggested deletion of § 58.21 in favor of the elaboration of a definitive list of only those activities which would require environmental review, all other activities being automatically exempt.

c. The other respondents requested further clarification and indicated the need for coordination and consistency. Particularly questioned were the conditions attached to some of the exempt activities, and the provisions for exemption of public services and rehabilitation (58.21(b)(3), (b)(4)), and public facilities (58.21(b)(1)). Other comments expressed regret that the exempt status from the environmental review requirements under NEPA did not automatically exempt these projects from compliance with other applicable authorities.

HUD Action on Comments

The revised section of the final rules exempts environmental studies, planning and design, administration, payments of urban renewal project loans, and payments for notes guaranteed under Section 108 of the Act from environmental review requirements. The following projects and activities are also exempt: projects consisting solely of acquisition, construction, reconstruction, or installation of certain types of public facilities; interim assistance for imminent threat to public health or safety; certain types of public services and certain types of rehabilitation of buildings which meet specific criteria. However, these projects must comply, as appropriate, with other applicable statutes and regulations cited in § 58.1(a)(3).

Projects Requiring an Environmental Impact Statement

(Section 58.25)

In the September 1978 revisions and amendments to Part 58, HUD proposed to expand § 58.25 in order to identify projects which because of their size or scale are automatically deemed to be major Federal actions significantly affecting the quality of the human environment and, therefore, requiring preparation of an EIS. The automatic thresholds in this section would augment but not replace qualitative factors which may lead an applicant, under § 58.15, to conclude that an EIS is required.

Nature of the Comments

There were 32 comments from 14 respondents generally favorable to and supporting the concept of variable thresholds. Of these responses, eight signified their acceptance while six criticized or hand certain reservations and questions. The latter were based on conceptual grounds, generally of a technical nature. Some comments questioned the conceptual basis of the system and the threshold values used, suggesting that additional indicators be taken into account (geographical extent, density, time factors). Operational questions were also raised based on the difficulties that might be experienced in defining the boundaries of the urbanizing belt.

HUD Action on Comments

In response to these comments, HUD wishes to indicate that the indices used for the variable thresholds and values implicity or explicitly included the factors mentioned in the commentary but that they had been simplified for the sake of clarity and easier application.

As the consensus of the response generally praised the new system for determining projects which require an environmental impact statement, § 58.25, of the final rule includes the variable thresholds proposed in the September 1978 amendments. A footnote has been added however to Table I providing for documented waivers that are prescribed in the existing regulations. (see § 58.11.)

Section 58.25(a) establishes a system of variable EIS thresholds applicable to various types of housing actions. The threshold system is the same as that proposed by HUD for its housing programs. The thresholds relate to certain projects which would remove, demolish or substantially rehabilitate existing housing, or provide sites for housing. For such projects located in non-SMSA counties, and for projects in SMSA counties but outside a defined urbanizing belt, the thresholds is 500 units. For projects located within the urbanizing belt, the thresholds vary from 500 to 2,500 units depending upon the total population of the SMSA county itself. The variable thresholds are presented in Table 1. They replace the single threshold of 500 units which HUD concluded did not distinguish among the size, population or density of development characteristics of various project areas in the United States and which did not recognize differences in the local ability to absorb and serve new or change development.

Section 58.25(b) states that in calculating the threshold for projects which provide sites for hospitals and nursing homes, the term "bed" shall be substituted for "housing unit".

Section 58.25(c) corrects some of the confusion which has ensued from the application of the 100 acre threshold for water and sewer projects in the 1975 version of § 58.25(b). It links this threshold with the residential threshold in § 58.25(a). In general, the new language provides that open land to be served by a new or enlarged water or sewer line shall be measured in equivalent housing units and this number applied to the thresholds of § 58.25(a) in order to determine whether an EIS will be required. The threshold will be calculated by the standard flows per unit and the increase in flow converted to the number of housing units.

Comprehensive and Early Evaluation

(Section 58.5, 58.3 and 58.25)

The proposed revisions and amendments of 1978 emphasize that comprehensive environmental reviews should be undertaken by CDBG applicants early in the planning and programming of its Block Grant projects and activities. This emphasis was provided in the 1978 amendments in the form of policy statements in § 58.5(g) on timing, aggregation and cumulative impacts and included in the definitions of § 58.3 for "activities" and "projects". The purpose of comprehensive environmental reviews is to reduce the environmental workload and the number of environmental reviews of individual projects or activities. This approach would also improve the quality of the reviews which have tended to be inadequate because narrowly focused. In addition early reviews would be useful in the local decisions about project selection and design.

Nature of the Comments

Forty-two (42) responses supported the emphasis on comprehensive environmental reviews but expressed doubts about the capability of most applicants to undertake such reviews without assistance from HUD. There were approximately 90 comments, 30 of which addressed the definitions in § 58.3, 35 on the policy statements for aggregation and cumulative impact (§ 58.5g) and 25 responding to the timing requirements of § 58.5(g).

The definitions for activities and projects were questioned by seven commentators, the concern being that the comprehensive environmental reviews could be interpreted to include not only projects funded under Title I but also public and private projects funded from other sources. A second concern was the appearance that HUD would require environmental reviews of three year housing assistance plans.

Of the 25 comments generally addressed to the HUD effort to have early environmental reviews, five respondents based their objections on technical grounds. They suggested that the timing would be fundamentally counter-productive to the stated purposes of the section in view of the reprogramming which would be likely to occur (changes in project scope, size, location, cost, etc.), thus delaying rather than expediting the environmental review process. It would also discourage the proposal of projects which, although needed, would require environmental impact statements. Instead, applicants would favor other projects which do not require EIS's so as to avoid time and cost associated with these environmental reviews.

The opposition to the cumulative impact and aggregation requirements is that they may be construed, as they were by three respondents, to extend the environmental review responsibility of applicant communities over which they have no control (e.g., development activities of the private sectors, activities funded by other sources).

Seventeen of the 33 comments conveyed the reservations based on conceptual grounds and the others seeking clarification to procedural and operational questions. Three questions were raised relative to the actual capability of applicants to carry out the comprehensive environmental reviews pointing out the disadvantage of comprehensive reviews which would almost always lead to higher level findings and environmental impact statements, and the potential distortion of individually beneficial projects which could be found to have adverse consequences in a comprehensive assessment.

HUD Action on Comments

The final rules of Part 58 define the general orientation toward comprehensive and early evaluation as provided in §§ 58.5(g) and 58.3 in response to the generally favorable consensus in the commentary which was sympathetic to the purpose and objectives. From its review of the questions raised, HUD realizes that there would be operational and procedural questions which will have to be resolved in the course of the implementation of these new provisions. Technical guidance and assistance as well as an ongoing program of audits and evaluation are operational measures suggested by comments for refining comprehensive environmental reviews. Consideration was given by HUD to the question concerning the scope of the environmental reviews for projects which included actions other than these funded by the CDBG program. As a rule, comprehensive reviews should include those activities and actions known to the applicant and in particular those actions which have been designated by an applicant as part of its strategy for the treatment of a project area.

Other Amendments to Existing Regulations

The following revisions and amendments proposed in September 1978 are retained substantially unchanged in the Final Amendments with some revisions included for clarification or editorial purposes.

Authorities and Responsibilities—(58.1(a), 58.5 and 58.24)

The basic authorities listed in § 58.1(a)(3) have been revised to include Executive Orders 11990 on wetlands, and 11988 on flood plain management, both issued on May 24, 1977, the Safe Drinking Water Act of 1974 and the Endangered Species Act of 1973. The solid waste disposal authority has been added to the September 1978 listing at the request of the Environmental Protection Agency.

A new § 58.23 in the Final Amendments contains provisions for complying with the Executive Orders on Wetlands and flood plain management. Section 58.5 has been revised to make it clear that applicants' responsibilities include compliance with applicable laws and regulations pertaining to flood plain management and wetlands.

Time Periods (§ 58.3)

The revised section defines the time period requirements in term of calendar days. Based on numerous suggestions in the commentary received, HUD clarified the effective date which initiates the time requirement of a review action.

Concurrent Publication of Notices (§§ 58.16 and 58.30)

The final rule incorporates the changes and requirements proposed in September 1978 which provide for the concurrent publication, at the applicant's option, of the Notice of Intent to Request Release of Funds and the 15 day Notice of Finding of No Significant Effect.

The period for the Notice to Request Release of Funds has been changed from 5 business days to seven (7) calendar days. Thus, at the end of the 15-day period for comment on the Notice of Finding of No Significant Effect, the applicant, if its funding is unchallenged, may request the release of funds. Provisions requiring the use of HUD formats or HUD approved formats have been revised to give the applicant the option to use HUD-formats or equivalent ones without requiring the approval of HUD. This provision therefore may allow the combination of the two notices, as suggested by 17 responses, mostly from small cities, into one published notice.

Publication and Dissemination of Notices (§ 58.17)

In response to complaints that notices were being placed in obscure and little

read legal or commercial journals, § 58.17(b) has been revised to indicate that a Notice of Intent To Request Release of Funds and Notice of Finding of No Significant Effect must be published at least once in a newspaper which is a source of general news used by the general public or published in some other manner most likely to inform residents.

The final rule incorporates these provisions and further clarifies the time requirement for receipt of comments on Draft EIS's from the date of publication in the Federal Register, normally on the Friday of the week following the one in which EPA received the notices.

Certifying Officer of Applicant (§ 58.3)

In response to the favorable consensus of the Commentary received, the Final Rule also retains the provisions delegating signature authority for purposes of environmental reviews and requests for release of funds to "certifying officer" in lieu of the chief executive. HUD recognizes that for a multi-activity CDBG program signatures by the chief executive officer may be required with unnecessary frequency. Therefore a definition of "Certifying Officer" has been supplied at § 58.3, and this officer is cited at relevant places in the revised regulation.

Conclusions

HUD has made a conscientious effort to accommodate all valid substantive comments in these final amendments. As discussed above, the environmental review procedure has been designed to take into account the various needs expressed by applicants and to simplify as well as reduce the workload the procedure imposes on the small cities. An effort was also made to improve the quality of the environmental reviews performed at the community level and to ensure the fulfillment of the environmental review and decision-making responsibilities delegated by the Secretary under Section 104(h) of Title I, Housing and Community Development Act of 1974.

The Department has determined that an Environmental Impact Statement under the National Environmental Policy Act is not required.

Title 24 CFR is amended by revising Part 58 to read as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Subpart A—General Policy and Responsibilities

Sec.
58.1 Purpose and authority.
58.2 Time periods.
58.3 Terminology.
58.4 [Reserved]
58.5 General policy.
58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

58.7 [Reserved]
58.8 [Reserved]
58.9 Financial assistance for environmental review.
58.10 [Reserved]
58.11 Evironmental review record.
58.12 [Reserved]
58.13 [Reserved]
58.14 [Reserved]
58.15 Steps to commence environmental review process.
58.16 Steps to complete environmental review process where level of clearance finding is that the request for release of funds for project is not an action which may significantly affect the environment (no EIS).
58.17 Steps to complete environmental review process where level of clearance finding is that the request for release of funds is an action which may significantly affect the environment (EIS required).
58.18 Limitation on action pending clearance.
58.19 Use of prior environmental reviews.
58.20 Financial settlements of urban renewal projects.
58.21 Exempt activities.
58.22 [Reserved]
58.23 Floodplains and wetlands.
58.24 Historic preservation.
58.25 Projects requiring an EIS.
58.26 [Reserved]
58.27 Interaction of applicant with Federal agencies—lead agency role
58.28 [Reserved]
58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects.

58.30 Release of funds upon certification.
58.31 Objections to release of funds.
58.32 Effect of approval of certification.

Authority. Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Policy and Responsibilities

§ 58.1 Purpose and authority.

(a) *Authority*—(1) *Basic law.* The National Environmental Policy Act of 1969 (Pub. L. 91-190, 42 U.S.C. 4321 et seq.; hereinafter "NEPA") establishes national policy, goals, and procedures for protecting and enhancing environmental quality. NEPA, as implemented by Executive Order 11514 and the Guidelines of the Council on Environmental Quality, 40 CFR Part 1500 (hereinafter "CEQ," as to the Council, and "CEQ Guidelines") requires in section 102(2)[c], in addition to other responsibilities, that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for major Federal actions significantly affecting the quality of the human environment.

(2) *Section 104(h) of title I (of the Housing and Community Development Act of 1974* (Pub. L. 93-383, 42 U.S.C. 5301 et seq.); hereinafter "section 104(h)" and "Title I" respectively) authorizes a procedure under which applicants with approved applications for assistance under Title I assume for specific projects the environmental review and decisionmaking responsibilities that would apply to the HUD Secretary were he to undertake such projects as Federal projects. The procedure eliminates the necessity for Federal environmental impact statements at the time of the initial application. At the same time, however, the procedure is intended to assure that NEPA policies and protection of the environment continue undiminished. Under the procedure applicants are to certify prior to any commitment of Title I funds for particular projects (other than funds for general planning or environmental study purposes) that they have met all of their environmental responsibilities in accordance with regulations issued by HUD Secretary, after consultation with CEQ. Approval of such certification by the Secretary under section 104(h) discharges the responsibilities he may otherwise have had under NEPA with respect to the specific projects covered by the certification. The Secretary is to wait 15 days after receipt before acting upon such a certification, thus giving those who may wish to challenge a certification an opportinity to take appropriate action. That challenge can include suit against the certifying officer or applicant who for purposes of enforcing NEPA has consented to accept the jurisdiction of the Federal courts.

Such challenge may also include a request that the Secretary reject the certification. The Secretary will consider a request for rejection of the certification only if such request is grounded on certain bases, as set forth in § 58.31(b). Under section 104(h) cities, counties and other units of general local government assume only those

responsibilities which would apply if the HUD Secretary were to undertake the projects proposed for assistance as Federal projects. Thus, these regulations neither expand nor contract the categories of actions that would be subject to environmental identification and review procedures.

(3) *Other applicable authority.* The environmental review process must also take into account, where applicable, the criteria, standards, policies and regulations under the subsections below. The process should also consider the relationship of a project funded under Title I and the requirements of these authorities, to anticipated requests for other Federal assistance, particularly housing, to which these authorities may apply. An explanation of how these authorities are taken into account and considered shall be documented in the environmental review record prior to the applicant's submission of the certification and request for release of funds required by § 58.30.

(i) *Historic properties.* The National Historic Preservation Act of 1966 (Pub. L. 89-665); Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93-291) and regulations which may hereafter be issued; Executive Order 11593. Protection and Enhancement of the Cultural Environment, 1971; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800.

(ii) *Noise.* HUD Handbook 1390.2, Noise Abatement and Control, Department Policy, Responsibilities and Standards, 1971.

(iii) *Flood plain.* Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and implementing regulations; Title 24, Chapter X, Subchapter B, National Flood Insurance Program; Executive Order 11988 and applicable HUD implementing flood-plain management regulations.

(iv) *Coastal zones and wetlands.* Coastal Zone Management Act of 1972 (Pub. L. 92-583). Executive Order 11990 and applicable State legislation or regulations.

(v) *Air quality.* Clean Air Act (Pub. L. 90-148), as amended, and applicable U.S. Environmental Protection Agency implementing regulations.

(vi) *Water quality.* Federal Water Pollution Control Act (Pub. L. 92-500), the Safe Drinking Water Act of 1974 (Pub. L. 93-523) and applicable U.S. Environmental Protection Agency implementing regulations.

(vii) *Wildlife.* Fish and Wildlife Coordination Act (Pub. L. 85-624).

(viii) *Endangered species.* The Endangered Species Act of 1973 (Pub. L. 93-205) as amended by the Endangered Species Amendment Act of 1978 (Pub. L. 95-632, 16 U.S.C. 1536 et. seq.) and, applicable Department of the Interior and Department of Commerce implementing regulations.

(ix) *Solid waste disposal.* The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (Pub. L. 94-580) and applicable U.S. Environmental Protection Agency implementing regulations.

(b) *Purpose.* These regulations implement the requirements of section 104(h) which is intended to assure that the policies of NEPA are most effectively implemented in connection with the expenditure of funds under Title I, and to assure to the public undiminished protection of the environment. The policies of NEPA, in addition to other responsibilities set out in section 2 and Title I of NEPA, require the use of all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities, and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

§ 58.2 Time periods.

All time periods in this Part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time of the first day following the day of the action which initiates it.

For the purpose of this section, the term "action" means:

(a) Actual publication of the applicant's notices required by §§ 58.15, 58.16, 58.17 and 58.30;

(b) Actual publication in the Federal Register of the EPA announcement of its receipt of the applicant's notices;

(c) Receipt by the EPA of the final environmental impact statement.

§ 58.3 Terminology.

For the purposes of this part, the following terminology shall apply:

(a) *Actions which may significantly affect the quality of the human environment.* Those actions for which section 102(2)(c) of NEPA would require the preparation of an environmental impact statement (EIS). Applicants assuming NEPA responsibilities pursuant to Title I and these regulations shall review each project proposed for fund release under Title I in accordance with the environmental review process described in these regulations in order to determine whether the applicant's request to HUD for the release of Title I funds would constitute an action, were the applicant a Federal agency, which may significantly affect the quality of the human environment.

(b) *Activity.* As used in this Part, "activity" means both those actions funded or authorized to be funded with Title I assistance and those related actions which are not so funded or not authorized to be so funded but which are put forth by the applicant as part of its strategy for the treatment of a project area. In the context of environmental review, it is not the source of funds for an activity, but the nature of the activity and its relationship to other activities which is relevant. Where the term "eligible activity" is used in this part, it means an activity which is eligible for Title I assistance pursuant to 24 CFR Parts 570 and 571. See also § 58.21, Exempt Activities.

(c) *Applicant.* The applicant is the State or unit of general local government which makes application pursuant to the provisions of subpart D or subpart E of 24 CFR Part 570. One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a community development program in whole or in part, but only the State or unit of general local government may be the applicant under the subparts cited above, and under this Part 58. Upon execution of its grant agreement with HUD, an applicant becomes a "recipient" under 24 CFR Part 570. As used in this Part 58, the term "applicant" includes "recipient" under Part 570, where the context so requires.

(d) *Certifying officer.* The term "certifying officer" means the chief executive or another officer of the

applicant authorized, in accordance with applicable local law, to execute the certification and request for release of funds specified at § 58.30, to consent to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969, and to consent on behalf of the applicant to accept the jurisdiction of the Federal courts for the enforcement of NEPA responsibilities as such official.

(e) *Environmental impact.* Any alteration of existing environmental conditions, or creation of a new set of environmental conditions, adverse or beneficial, caused or induced in whole or in part, directly or indirectly, by a proposed project under Title I.

(f) *Environmental impact statement* (EIS). A written statement, prepared in accordance with NEPA and CEQ guidelines, describing any alteration of environmental conditions or creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the action or set of actions under consideration, and the alternatives to such action or group of actions. The statement should include a quantitative measure of magnitude and a qualitative measure of importance of the environmental impacts.

(g) *Environmental review and environmental review process.* The entire process for compliance by the applicant with NEPA under this Part with respect to a project funded under Title I.

(h) *Level of clearance finding.* The applicant's determination pursuant to § 58.15(d) as to which of the two levels of environmental clearance applies.

(Revised and redesignated as paragraph (b))

(i) *Project.* The term "project", as used in this Part, means an activity or a group of integrally related activities, designed by the applicant to accomplish, in whole, or in part, a specific goal. Geographically or functionally related activities designed to accomplish a specific goal, irrespective of the funding sources of those activities, shall be grouped together for consideration as a single project. Because of the interrelationships of the activities comprising the project, the project as a whole shall be subject to a single environmental review in accordance with this part. A project may take a number of years to complete and may require funds in addition to the amount provided in a single program year.

(j) *SMSA.* A standard metropolitan statistical area as defined by the Office of Management and Budget.

(k) *SMSA county.* Within an SMSA, a county or county equivalent as listed in the P-25 series, with population estimates and projections, published by the Bureau of the Census.

(l) *Substantial completion.* As applied to an urban renewal project, this term means that:

(1) Ninety percent (90%) or more of site improvement work has been completed and the remainder is under contract;

(2) Ninety percent (90%) or more of demolition work has been completed and the remainder is under contract;

(3) Relocation of all occupants of at least ninety-eight percent (98%) of the housing units in the relocation workload, or of all but five (5) such housing units, whichever is the lesser, has been completed;

(4) Relocation for at least ninety-five percent (95%) of all cases in the nonresidential relocation workload, or for all but ten (10) such cases, whichever is the lesser, has been completed;

(5) At least ninety percent (90%), by estimated cost, of all relocation payments have been made;

(6) With respect to each park, playground, public building or other public facility to be provided as a noncash local grant-in-aid:

(i) All land necessary for the provision thereof has been conveyed to or is in the ownership of the providing entity or is covered by an unconditional purchase, or similar, agreement,

(ii) All necessary planning agency or other public body approvals have been obtained,

(iii) All, or virtually all, of the funds necessary for the provision thereof have been authorized by the governing body of the providing entity and all and any necessary bond referendums or other public approvals have been obtained,

(iv) Complete working drawings and specifications have been prepared for the construction thereof and firm supportable estimates of the costs incident to provision thereof have been developed, and

(v) A firm assurance exists of timely completion and in any event, of completion within five (5) years from the date of the assurance;

(7) With respect to dwelling units not to be demolished, at least ninety-five percent (95%) comply with applicable codes and at least seventy-five percent (75%) comply with applicable property rehabilitation standards established for the urban renewal project: *Provided,* that in any event, project activities may be deemed complete in regard to dwelling units not to be demolished where the following conditions exist:

(i) Area decline has been arrested and stability and self-generating renewal assured,

(ii) Public facilities and services have been and will continue to be, provided to support continued stability,

(iii) Local financial institutions are making property loans in the area, and

(iv) The community will continue an adequate level of code enforcement activities in the area;

(8) All project land acquisition has been completed; and

(9) An amount equal to the HUD approved land disposition value of all acquired project land has been credited to the urban renewal project account(s): *Provided,* that for all project land actually sold, the full sale price thereof shall be so credited and for all leased or unsold project land, the full amount of the HUD approved estimate of the disposition value thereof shall be so credited from community development block grants or local funding sources.

(m) *Urban renewal project.* A project as defined in section 110(c) of the Housing Act of 1949, as amended, or a neighborhood development program as defined in section 131(b) of the Housing Act of 1949, as amended.

(n) *Urbanizing belt.* Urbanizing belts are identified by the Bureau of the Census, plus a two-mile zone around the outer boundaries of such areas. In cases where this two-mile zone borders or includes a portion of an incorporated place lacking census tracts, or, when the two-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract may be used to delineate the outer limit of the urbanizing belt. An urbanizing belt may extend into the county of an adjacent SMSA, using the applicable threshold of that county but in no case shall the urbanizing belt extend beyond the SMSA boundary.

§ 58.4 [Reserved]

§ 58.5 General policy.

(a) *Applicants to assume environmental responsibilities.* Except as provided at paragraph (b) of this section, all applicants for assistance under Title I shall be required to assume responsibility for carrying out all of the provisions of NEPA relating to particular projects for which the release of funds is sought. This shall include assuming all applicable responsibilities relating to such projects for compliance with the National Historic Preservation Act of 1966, as amended; the Preservation of Historic and Archeological Data Act of 1974, as amended; Executive Order 11593, May 13, 1971, Protection and

Enhancement of the Cultural Environment; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800; Executive Order 11988, May 24, 1977, relating to Floodplain Management; Executive Order 11990, May 24, 1977, relating to Protection of Wetlands; Section 1424(e) of the Safe Drinking Water Act of 1974; the Endangered Species Act of 1973; and other regulations and orders issued relative to any of the foregoing. In assuming such responsibility, the applicant's certifying officer shall carry out the responsibilities of the "responsible Federal official" as that term is used in NEPA and applicable regulations thereunder. Such responsibilities include, where applicable, the conduct of environmental reviews; decisionmaking and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements in behalf of Federal agencies when such agencies consent to such assumption. The certifying officer shall be subject to the jurisdiction of the Federal courts pursuant to section 104(h); such certifying officer of the applicant shall not be represented by the Department of Justice in court, but reasonable defense costs, including the fees of attorneys and experts, incurred in environmental litigation may be funded from the applicant's grant amounts.

The carrying out of all environmental review responsibilities shall be documented in the environmental review record prior to the applicant's submission of the certification and release of funds required by § 58.30.

The certification described at § 58.30 must be submitted to HUD by the applicant prior to the release of funds for any such project as evidence of the assumption of the responsibilities set forth above.

(b) *Exception.* (1) Each applicant shall, prior to submitting an application, review its legal capacity to assume and carry out the environmental responsibilities hereunder. If an applicant believes it may lack legal capacity to assume and carry out environmental review responsibilities hereunder, then it shall submit to the HUD official authorized to receive the application the legal opinion of its attorney in support of such claim and shall consult with said HUD official in order to obtain appropriate instructions. Such claim shall be made prior to submitting an entitlement or discretionary application. Discretionary applicants shall submit such claim to HUD with the preapplication, if a preapplication is required. HUD will review such claim and approve or disapprove it.

(2) If an applicant's claim of lack of legal capacity has been approved by HUD, then HUD will complete an environmental assessment, including an EIS if appropriate, pursuant to HUD Handbook 1390.1, as amended, before the application is approved, or in those cases where a preapplication is required, before the applicant is invited to submit a full application.

(3) Community associations, other applicants which are eligible for assistance pursuant to 24 CFR 570.403(b)(4) unless such applicant is also described in the first sentence of 24 CFR 570.3(v), and private developers approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the HUD Act of 1968, are considered by HUD to lack the legal capacity to assume or carry out environmental review responsibilities.

(c) *Environmental review process.* The environmental review process consists of a study by the applicant of each project to identify any environmental impacts of actions proposed to be taken by the applicant which are to be supported, in whole or in part, by Title I funds.

(d) *Determination of impact.* In the evironmental review process, the applicant must arrive at a determination as to whether or not any proposed project will result in any environmental impact; or will itself be affected by the environment; the nature, magnitude and extent of any such impact; whether or not any changes could be made in the project as proposed, or alternatives to such project could be adopted, to eliminate or minimize adverse impacts; and the level of environmental clearance which is appropriate. Such determination is largely a matter of judgment on the part of the applicant, involving evaluation of available facts, pursuant to the procedures and guidelines contained in this Part.

(e) *Conditions and safeguards.* If the applicant's environmental review process reveals conditions or safeguards which should be implemented when the project is undertaken, in order to protect or enhance environmental quality or minimize adverse environmental impacts, then such conditions or safeguards shall be set forth in the environmental review record and the applicant shall use all appropriate means to assure that those conditions and safeguards are implemented.

(f) *Decision not to implement.* If, through the environmental review process, the applicant concludes that the proposed project should not be implemented in whole or in part, then the applicant may reprogram to another eligibile project, in accordance with the applicable provisions of 24 CFR 570.305.

(g) *Scope and timing of environmental reviews.* Applicants shall carry out their environmental review responsibilities for projects as defined at § 58.3 in accordance with the following:

(1) *Timing.* To the greatest extent possible, the environmental review of proposed projects shall be carried out concurrently with the formulation of the applicant's community development program and the preparation of the application for Title I funds. Environmental review shall commence at the earliest possible point in the development of a project. When a project is formulated, it shall be reviewed for environmental considerations in order to identify and evaluate expected or potential environmental impacts, to devise changes and modifications to eliminate or mitigate adverse impacts, and to explore alternatives. By developing and carrying out its environmental review as part of the overall program and application formulation process, the applicant can considerably shorten the time between program development and program implementation.

(2) *Cumulative impact and aggregation.* The cumulative effects of related activities must be considered together. Activities which are individually small may, in the aggregate, have cumulatively large effects on the environment, especially when a number of such activities will take place at or about the same general time and in the same general location. Also, a series of activities taking place over extended periods of time can, in the aggregate have a cumulative effect upon the environment much greater than the effect of each individual activity considered separately. All individual actions activities which are related either geographically or functionally, or are logical parts of a composite of contemplated actions, shall be grouped and shall be deemed by the applicant to be a project and must be evaluated as a whole in a single, comprehensive environmental review. The environmental review of a multi-year project shall encompass the entire multi-year scope of activities and shall not be limited to those activities scheduled for any given year. This subsection applies to all projects and activities, except that for exempt activities defined at §58.21(a)

the applicant may, but is not required to, apply these aggregation requirements.

(3) *Illustrations.* Where an applicant proposes to acquire a parcel of land, relocate its occupants, clear the site by demolition, then develop the site, or dispose of it for development by others, then all of these activities must be viewed as comprising a single project, for purposes of environmental review. Where an applicant proposes to undertake a number of small activities, such as street, water, and sewer improvements in a given neighborhood, the applicant shall aggregate all such geographically or functionally related activities and view them as a single project for environmental review purposes and shall evaluate their cumulative environmental impact. This applies even if the activities are to occur over a period of years and even if some of the activities are to be funded by other than Title I funds or carried out by someone other than the applicant.

§ 58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

§ 58.7 [Reserved]

§ 58.8 [Reserved]

§ 58.9 Financial assistance for environmental review.

Applicants may utilize Federal financial assistance to enable them to carry out environmental review pursuant to this Part, in accordance with the provisions of 24 CFR 570.205, 570.206(h), 570.301 and 571.205 and 571.206(h). The costs of environmental reviews include any costs incurred in complying with any of the authorities mentioned at § 58.1(a)(3) of this Part.

§ 58.10 [Reserved]

§ 58.11 Environmental review record

Applicants shall prepare and maintain a written record of the environmental review pertaining to each project, which shall be designated the "Environmental Review Record", and shall be available for review as part of the project proposal at the request of interested agencies, groups or individuals. The environmental review record, using the appropriate formats contained in HUD 399–CPD, Environmental Reviews at the Community Level, or other equivalent formats used by the applicant, shall include as applicable:

(a) A description of the project to which it relates;

(b) Documentation showing that each step in the environmental review process set forth in § 58.15 has been performed, that the level of clearance finding required by 58.15(d) has been made, and is supported in the environmental review record;

(c) Documentation showing that each step in the environmental review process under § 58.16 or § 58.17, as the case may be, has been performed, and that the requirements of applicable subsections have been satisfied;

(d) A description of the existing environmental conditions, the environmental impacts identified and modifications and changes made to compensate for environmental impacts;

(e) A copy of any Draft EIS, and the comment, on it, and the Final EIS;

(f) Copies of historic preservation review analyses conducted under 36 CFR Part 800, showing satisfaction with each applicable step of such process and support for any conclusion reached in connection therewith;

(g) The written decision required by § 58.19(c) with respect to projects to which § 58.19(c) is applicable;

(h) A copy of the notice required by § 58.30(a), the request required by § 58.30(b), and the certification and accompanying statement required by § 58.30(c);

(i) A copy of any environmental objection received which pertains to the project;

(j) A copy of any request for a waiver, and any waiver that may be issued under § 58.25 (Table I note (2));

(k) Evidence of any determination of the "lead agency" under § 58.27;

(l) Copies of environmental analyses or reports, conducted under State or local law;

(m) Original counterparts or copies, as appropriate, of other documents appropriate in the judgment of the applicant for inclusion in the environmental review record;

(n) Documentation relative to compliance with Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands, including the notices required by § 58.23; and

(o) Documentation required to reflect compliance with related statutory authorities and legislation cited in § 58.5(a).

§ 58.12 [Reserved]

§ 58.13 [Reserved]

§ 58.14 [Reserved]

§ 58.15 Steps to commence environmental review process.

The manner in which the applicant carries out the environmental review process, including the concurrent historic preservation review, and other reviews required by the authorities set forth in § 58.1(a) and the responsibilities assumed pursuant to § 58.5(a), is largely within the discretion of the applicant. However, the process should start as early in the planning and program development process as possible, should be completed while alternatives can still reasonably be considered and action taken to enhance environmental quality. Unless an immediate decision is made that an EIS is required, the process will be reported in the HUD Format I or equivalent, and shall include the following steps:

(a) *Determine existing conditions.* Existing environmental conditions and trends which are likely to continue in the absence of the proposed project should be identified. Such information is an essential data base from which to assess and evaluate any effects of the project.

(b) *Identify environmental impacts.* The nature, magnitude, and extent of all environmental impacts of the project, whether beneficial or adverse, should be identified.

(c) *Examine identified impacts.* As to all environmental impacts of the proposed project which are identified:

(1) *Possible project modification.* Examine the project and consider ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize any adverse environmental impacts and enhance environmental quality. The examination should include consideration in light of the policies set forth in § 58.1(b) of both positive and negative effects of any such modification in relation to design, use, location, cost, and timing of the proposed project and its implementation.

(2) *Alternatives.* Examine alternatives to the project itself which would eliminate or minimize environmental impacts or enhance environmental quality. The examination should include consideration of both positive and negative effects of any such alternatives in relation to design, use, location, cost, and timing, and consideration of the effect of no project.

(d) *Level of clearance finding.* Having completed each of the foregoing steps that may be applicable in the environmental review process, the applicant shall make one of the two level of clearance findings set forth below.

(1) *Finding that request for release of funds for project is not an action which may significantly affect the quality of human environment.* If the

environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is not an action which may significantly affect the quality of the human environment, then a document stating this finding and the facts and reasons supporting the finding shall be prepared by the applicant and included in the environmental review record. The document shall set forth sufficient information to demonstrate that the applicant has complied with each step in the environmental review process.

(2) *Finding that request for release of funds for project is an action which may significantly affect the quality of the human environment.* If an EIS is required by § 58.25, or if the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is an action which may significantly affect the quality of the human emvironment, then a document stating this finding shall be prepared by the applicant and included in the environmental review record. An EIS is required for each action which may have such significant effect.

§ 58.16 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is not an action which may significantly affect the environment (no EIS).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(1):

(a) *Notice of finding of no significant effect.* The applicant shall prepare a notice of finding of no significant effect on the environment using format VI of HUD-399-CPD, Environmental Reviews at the Community Level, or such other equivalent format as may be used by the applicant.

(b) *Publication and dissemination.* The notice of finding of no significant effect on the environment shall be published and disseminated in the same manner as a notice of intent to file an EIS, as described as § 58.17(b) and will provide at least 15 days after initial publication for public comment. The applicant may, at the same time of publication of the above notice, also publish the notice required by § 58.30(a). In such case, both notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Completion.* Following publication and dissemination of the notice of finding of no significant effect on the environment and the expiration of any time fixed for comments, the environmental review process shall be complete, unless further proceedings are found by the applicant to be necessary, due to responses to such notice, or otherwise.

§ 58.17 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is an action which may significantly affect the environment (EIS required).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(2):

(a) *Notice of intent to file an EIS.* As soon as practicable, the applicant shall prepare a notice of intent to file an EIS using format V of HUD-399-CPD, Environmental Review at the Community Level, or such other equivalent format as may be used by the applicant.

(b) *Publication and dissemination.* Copies of the notice of intent to file an EIS shall be sent to the local news media, individuals and groups, including low- and moderate-income neighborhood groups, known to be interested in the applicant's activities, local, state, and Federal agencies, including the headquarters and appropriate Regional Office of the Environmental Protection Agency, the HUD Area Office, the appropriate A-95 clearinghouses, and others believed appropriate by the applicant. Such notice shall be published a least once in a newspaper of general circulation in the affected community. If such newspaper is of a type specializing in the publication of legal, real estate, commercial, or other notices, listings, and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in easily readable type in the nonlegal section of a newspaper of general circulation, and where appropriate in a minority and non-English language newspaper of general circulation where such exists. The applicant also shall make reasonable efforts to provide the notices, in the form of press releases to neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods.

(c) *Public hearings—Procedure.* Prior to the preparation and distribution of a draft EIS, the applicant shall determine whether or not it will conduct a hearing or hearings at which members of the public may be heard respecting the preparation and contents of the draft EIS. The applicant should also determine whether or not separate public hearings shall be held concerning the draft EIS, or whether such public hearings shall be combined with other public hearings pertaining to the application of the applicant. All such public hearings concerning a draft EIS shall be preceded by a notice of public hearing, which shall be published and disseminated in the same manner as a notice of intent to file an EIS as set forth in § 58.17(b), at least 15 days prior to such hearing, and which shall: (1) State the date, time, place, and purpose of the hearing; (2) describe the project, its estimated costs, and the project area; (3) state that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard; (4) state the name and address of the applicant and the certifying officer of the applicant; and (5) state where the draft EIS can be obtained, whether in person or by mail, and any charges that may apply.

(d) *Public hearings—Factors to consider.* The determination of whether or not public hearings shall be held prior to distribution of a draft EIS or after such distribution, or at any other time during the environmental review process, shall be within the reasonable discretion of the applicant. In determining whether of not to hold such public hearings on environmental issues, either separately, or in combination with other proceedings relating to the application of the applicant, the following factors should be considered: (1) The magnitude of the projects, in terms of economic costs, the geographic area involved, and the uniqueness of size of commitment of the resources involved; (2) the degree of interest in or controversy concerning the projects, as evidenced by requests from the public, or from Federal, State, or local authorities, for information, or that a hearing be held; (3) the complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the applicant in carrying out its environmental responsibilities respecting the particular projects; (4) the extent to which public involvement has been achieved with respect to environmental concerns through other means, such as other public hearings, citizen participation in the development of the applicant's community development program and in formulation of its application, meeting with citizen representatives, and written comments on the particular projects.

(e) *Draft EIS.* A draft EIS shall be prepared in accordance with CEQ guidelines (40 CFR Part 1500). Copies of the draft EIS shall be sent by the applicant to:

(1) The Headquarters of the U.S. Environmental Protection Agency, Office of Federal Activities, Mail Code A-104, Room 537W, 401 M Street, SW., Washington, D.C. 20460. The applicant is required to file 5 copies of the draft EIS with the EPA headquarters in order to fulfill the official filing requirements as set forth in the CEQ guidelines. Upon filing of the draft EIS with EPA headquarters, a notice that the applicant has prepared a draft EIS will be published by EPA in the Federal Register which normally will be on the Friday of the week following the one in which EPA received the required number of copies. There shall be a minimum review period of 45 days for the draft EIS plus any extensions thereof initiated or granted by the applicant. A draft EIS must be on file with EPA at least 90 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30.

(2) Simultaneously with the official filing set forth in paragraph (e)(1) of this section, five (5) copies will be transmitted to the appropriate Regional Office of the U.S. Environmental Protection Agency in order to fulfill the requirements of § 309 of the Clean Air Act.

(3) Copies shall also be transmitted to Federal agencies whose areas of jurisdiction of law or special expertise are involved, to the applicable OMB-designated A-95 clearinghouses, to appropriate local agencies and entities, including local and area planning agencies, and groups or individuals known by the applicant to have an interest in the proposed action of the applicant.

(4) The appropriate HUD Area and Regional Office and to the HUD Headquarters Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each)

(5) Copies shall also be made available to the public at the offices of the applicant and at public libraries and either copies, or summaries, of the draft EIS, must be made available, upon request, to persons who request them.

(f) *Final EIS.* A final EIS shall be prepared in accordance with CEQ guidelines (40 CFR Part 1500). The final EIS must take into account and must respond to the comments received as the result of circulation of the draft EIS. The final EIS, including all comments received and the applicant's responses thereto, shall be filed with:

(1) The U.S. Environmental Protection Agency, Office of Federal Activities, Mail Code A-104, Room 537W, 401 M Street, SW., Washington, D.C. 20460. The applicant is required to file 5 copies of the final EIS with the EPA headquarters in order to fulfill the official filing requirements as set forth in the CEQ guidelines. Upon filing of the final EIS with EPA headquarters, a notice that the applicant has prepared a final EIS will be published by EPA in the Federal Register.

(2) Simultaneously with the official filing set forth in paragraph (f)(1) of this section, five (5) copies shall be transmitted by the applicant to the appropriate Regional Office of the U.S. Environmental Protection Agency in order to fulfill the requirements of section 309 of the Clean Air Act.

(3) Copies shall also be transmitted to all agencies and individuals who commented on the draft EIS, to A-95 clearinghouses, appropriate Federal, State, regional, and local agencies, and shall be made available to the public.

(4) The appropriate HUD Area and Regional Office and to the HUD Headquarters Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each).

(5) A final EIS must be on file with EPA not less than 30 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30. If the final EIS is filed within 90 days after publication by EPA in the Federal Register of notice of receipt of the draft EIS, then the minimum 30-day period for review of the final EIS, and the 90-day period provided for in § 58.17(e) will run concurrently, to the extent that they overlap.

(g) *Waivers from EIS time requirements.* Waivers from the time requirements specified for the draft and final EIS may be requested by the applicant. Requests should be submitted to the EPA Office of Federal Activities, Room 537W, Mail Code A-104, 401 M Street SW., Washington, D.C. 20460 accompanied by a justification for the request.

§ 58.18 Limitation on action pending clearance.

During the environmental review process and pending completion of the appropriate environmental clearance procedures, the applicant may not use any funds to take any action with respect to the project under review where such action might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such fashion that the validity of the conclusions to be reached would be affected.

Except as to exempt activities under § 58.21, no Title I funds will be released for a project until the Secretary shall approve said release of funds and the related certification. (See §§ 58.30, 58.31, and 58.32.) No Title I funds may be used to reimburse project costs subject to this part which have been incurred in advance of the Secretary's approval of the release of such funds and the related certification. Notwithstanding the foregoing sentence, on or after the effective date of the revised regulations of 24 CFR Part 42, relocation and acquisition costs may be reimbursed following the Secretary's approval of the release of funds and the related certification covering the project in connection with which such costs were incurred: *Provided,* That: (1) the payment of such costs is required by 24 CFR Part 42, and (2) such costs occurred during the two year period immediately prior to the date of the submission of an application for assistance under Title I which includes that project.

§ 58.19 Use of prior environmental reviews.

This section defines cases in which an EIS must be updated and cases in which an applicant may make use of a relevant published EIS for a new project activity; and it indicates cases of continuing activities in which a new environmental review is not required and cases in which they are required.

(a) *Procedures for updating EIS's.* The following procedures shall be followed when new information becomes available or circumstances change during the process of environmental reviews.

(1) If information arises after a draft EIS has been transmitted for circulation, but prior to the expiration date for receipt of comments, then a copy of any revision, amendment, addendum to the draft EIS, or other issuance, shall be transmitted to all parties to whom the draft EIS was transmitted, and to all parties who have commented thereon, and, where appropriate, the applicant shall extend the time for comment on the draft EIS.

(2) If the time for comments on the draft EIS has expired, but the final EIS has not been circulated, then any revision, amendment or addendum to the draft EIS shall be transmitted to all parties to whom the draft EIS was transmitted and to all parties who commented thereon, and a reasonable time for receipt of comments shall be fixed and allowed. The final EIS shall

then reflect the additional factors and contain the comments and responses respecting them.

(3) If the final EIS has been circulated, then it shall be revised and reissued or an addendum thereto shall be prepared and distributed, as appropriate, to all parties to whom the final EIS was distributed and to others who have commented thereon. Such revision or addendum shall be subject to the same review and comment procedures, including those respecting time, as the final EIS which is being updated.

(b) *Use of prior environmental impact statements.* Where any final environmental impact statement has been listed in the Federal Register for a project or where an areawide or similar broad scale final EIS has been so listed and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for that subsequent project if the conditions set forth below in subparagraphs (1), (2), (3), and (4) are met.

(1) The environmental review record contains a decision based on a finding that the proposed project is not a new major Federal action significantly affecting the quality of the human environment.

(2) In addition to the content prescribed elsewhere in this section, the decision shall include:

(i) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(ii) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(iii) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior environmental impact statement;

(iv) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(3) The prior final environmental impact statement has been kept current in the following ways:

(i) The EIS has been filed or updated within five (5) years; and

(ii) The EIS has been updated in accordance with significant revisions made to the underlying assumptions (covering at least those items in § 58.19(b)(2)(iii) above) as may be stated in the comprehensive plan or major elements thereof or other public policy revisions; and

(iii) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which the Department of Housing and Urban Development has determined to have significant environmental impact on the areas covered by the prior EIS.

(4) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

(c) *Environmental review findings of no significant effect.*—(1) *No new environmental review.* A project which is a continuation of a previously commenced activity or activities for which environmental review or clearance has been completed and for which circumstances, including the availability of additional data or advances in technology, have not changed significantly, requires no new environmental review or clearance by virtue of such project's funding under Title I. The applicant shall prepare a written decision to that effect, which shall set forth the reasons therefor.

(2) *Requirement for new environmental review.* A project which is a continuation of a previously commenced activity or activities for which no environmental review has been completed or for which a prior EIS does not meet the requirements of § 58.19(b) must be subjected to an original or updated environmental review under this part. Such review shall be carried out with respect to the entire project to the extent that the entire project or portions of it could still be altered in light of environmental considerations.

§ 58.20 Financial settlement of urban renewal projects.

(a) *Project undertaken to facilitate early financial settlement.* If an applicant proposes to submit an application for financial settlement of an urban renewal project prior to substantial completion thereof pursuant to 24 CFR 570.804, which will be coupled with a proposal to use Title I grants pursuant to 24 CFR 570.801 for the purpose of facilitating such financial settlement, the latter proposal shall be deemed a project which is subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof;

(3) The applicant shall include the following sentence with the notice required by § 58.30(a):

> Applicant will use the project to establish a financial basis, and will apply to the Secretary of HUD for financial settlement prior to substantial completion of the *(identify urban renewal project or NDP)* pursuant to 24 CFR 570.803 and 570.804.

(b) *Financial settlement prior to substantial completion of urban renewal project involving surplus of capital grant funds.* A financial settlement pursuant to 24 CFR 570.803 and 570.804 of an urban renewal project prior to substantial completion thereof which would result in a surplus of capital grant funds, $500 or more of which will be devoted to eligible Title I activities other than exempt activities under § 58.21 together with the proposed use(s) of the surplus shall be deemed a project and shall be subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof, and of the proposed use(s) of the surplus except any use(s) set forth in § 58.21;

(3) The application for financial settlement pursuant to 24 CFR 570.803 and 570.804 and use of the surplus resulting therefrom shall be treated as a request for release of funds and shall be subject to the requirements of Subpart C of this Part. However, the applicant shall use the following sentence in lieu of the first sentence set forth after the word "indicated" in § 58.30(a)(6):

> *(Name of applicant)* will apply for financial settlement prior to substantial completion of *(identify urban renewal project or NDP)* and will undertake certain activities, all as described above, with surplus capital grant funds resulting from financial settlement.

(4) The surplus of capital grant funds resulting from such financial settlement may be used for a project which consists entirely of exempt activities under § 58.21 and/or activities which are subjected to environmental assessment pursuant to § 58.20(b) without further compliance with this Part.

(c) *HUD environmental review of certain financial settlements.* Prior to acting upon any application submitted pursuant to 24 CFR 570.803 and 570.804 for financial settlement of an urban renewal project which is not substantially completed and for which

the environmental consequences of financial settlement prior to substantial completion thereof have not been assessed by the applicant pursuant to § 58.20 (a) or (b), HUD shall itself conduct an assessment of the environmental consequences of the proposed financial settlement. However, if HUD finds that the applicant should have conducted an environmental assessment pursuant to § 58.20 (a) or (b) but failed to do so, the application for financial settlement shall be rejected and the applicant shall be required to comply with the environmental assessment requirements of § 58.20 (a) or (b) as appropriate, on a catchup basis, as a condition precedent to resubmission of its application.

(d) *Financial settlement after substantial completion of urban renewal project.* Notwithstanding any other provision of this part an assessment of the environmental consequences of financial settlement pursuant to 24 CFR 570.803 and/or 570.804, or an urban renewal project which is substantially completed, is not required. However, the applicant or HUD as appropriate, shall prepare and maintain in its records a written finding as to the substantial completion of the urban renewal project.

§ 58.21 Exempt activities.

(a) The following activities, to the extent eligible for assistance under Title I, are exempt from the requirements of this Part:

(1) Environmental studies or assessments.

(2) Activities authorized by section 105(a)(12) of Title I and 24 CFR 570.205 and 571.205.

(3) Administrative costs as provided by 24 CFR 570.206 and 571.206.

(4) The payment, under authority to section 105(a)(10) of Title I, of principal and interest on outstanding urban renewal project loans as defined in 24 CFR 570.800(b) where such payment is not covered by § 58.20 or where such payment is not associated with a change in the related urban renewal project.

(5) The payment, under authority of section 108 (c) of Title I, of principal and interest due on notes or other obligations guaranteed pursuant to section 108; and the repayment, under authority of section 108; and the repayment, under authority of section 108(e), due the United States as a result of guarantees made pursuant to section 108.

(b) Projects (see definition at § 58.3 and aggregation requirements of § 58.5(g)) which consist solely of the following kinds of activities shall also be exempt from the requirements of this Part:

(1) Acquistion, construction, reconstruction, rehabilitation, or installation of public facilities and improvements eligible under §§ 570.201(c) and 571.201(c) and economic development activities authorized pursuant to §§ 570.203 and 571.203, subject to the following limitations:

(i) Acquisition for continued use. The article to be acquired is in place and will be retained in the same use that existed at the time of acquisition, without change in size, capacity, or character.

(ii) Acquistion, construction, reconstruction, or installation for replacement or upgrading. The article will replace or upgrade a substantially identical original article, without more than a minimal change in its use, size, capacity, or location (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving streets, and modification of buildings to provide access for elderly and handicapped persons).

(iii) Acquisition, construction, reconstruction, or installation to furnish or equip. The article will furnish or equip a site (other than furnishings and personal property prohibited by §§ 570.207(b)(2) and 571.207(b)(2)) where its placement and use is consistent with the use of that site and the action will not change the use, size, capacity, or character of the site (e.g., landscaping, street furniture, equipping established parks and playgrounds), and fire protection equipment consistent with the eligibility requirements prescribed by § 570.201(c)(6)(ii).

(2) Interim assistance eligible under § 570.201(f) and single purpose grants for imminent threats to public health or safety pursuant to§ 570.432.

(3) Public services which:

(i) Are in support of a neighborhood strategy area program which consists entirely of activities exempt under this part; or

(ii) Are a continuation of services after completion of concentrated physical development activities of a neighborhood strategy area program pursuant to § 570.201(e)(1); or

(iii) Are provided by nonprofit or simialr organizations in accordance with §§ 570.204(c)(4) and 571.204(c)(4) where the services are not part of a block grant funded physical development project.

(4) Rehabilitation of buildings and improvements as set forth in §§ 570.202 and 571.202, except paragraph (f), provided that:

(i) Unit density is not increased more than 20 percent; or

(ii) The project does not involve changes in land use from residential to nonresidential use or from nonresidential to residential use, or from one class of residential use to another class of residential use; or

(iii) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(5) Combinations of the above activities.

(c) *Other program requirements not affected.* The exemption of activities or projects from environmental review procedures pursuant to this section, does not relieve the applicant from compliance with the historic preservation requirements of § 58.24, the flood plains and wetland requirements of § 58.23, other authorities set forth at § 58.1(a)(3), the responsibilities assumed pursuant to § 58.5(a), and other applicable program requirements set forth at 24 CFR Parts 570 and 571. Documentation of compliance with these other requirements shall be contained in the environmental review record.

§ 58.22 [Reserved]

§ 58.23 Floodplains and wetlands.

Applicants must comply with the requirements of section 2(a) of Executive Order 11988 on floodplain flood plain management and with sections 2 and 5 of Executive Order 11990 on protection of wetlands. In so doing, applicants shall use the flood plain management guidelines prepared by the U.S. Water Resources Council and published February 10, 1978, at 43 FR 6030. The following procedures apply where either of the Executive orders is applicable.

(a) *Early public review.* In carrying out the requirements of section 2(a)(4) of Executive Order 11988 and of section 2(b) of Executive Order 11990, applicants shall publish a notice providing opportunity for early public review as soon as it is determined that a project is proposed to be located in a floodplain or wetland as defined by the respective Executive order. Such notice may be brief, but shall: (1) Identify the affected project; (2) set forth the facts and reasons for such proposed project; (3) state that the applicant has additional information on the proposal available and where such information may be obtained; (4) indicate that comments may be submitted to the applicant until a certain date which shall not be less than 15 days following its first publication and dissemination; (5), state the name and address of the

applicant and the certifying officer of the applicant; and (6) be dated as of the time it is first published and disseminated. Copies of this notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b).

(b) *Notice of explanation.* The notice of explanation of why a project is proposed to be located in a floodplain as required by section 2(a)(2)(ii) and 2(a)(3) of Executive Order 11988 may be published and distributed at the same time as the notice required by § 58.30(a). In such cases the notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Certification.* Submission by the applicant of the certification form required by § 58.30(c) shall also be considered certification that the requirements of Executive Orders 11988 and 11990 have been met by the applicant.

§ 58.24 Historic preservation.

Applicants must comply with the following requirements relating to the Preservation of Historic and Archeological Data Act of 1974, section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593 whenever any property or district included in or found by the Secretary of the Interior pursuant to 36 CFR Part 800 to be eligible for inclusion in the National Register provided for by such Act, is in the boundaries, or within the vicinity of, a project which is to be funded, in whole or in part, by Title I funds.

(a) As part of the environmental review process each project shall be examined in accordance with the procedures for protection of historic and cultural properties (36 CFR Part 800) for the purpose of identifying any National Register and National Register-eligible properties and determining whether or not the project may affect the property. If the property is not affected by the project, the applicant shall so state, in the environmental review record.

(b) If the project will affect the property, the applicant, as part of the environmental review process, shall carry out the procedures set forth at 36 CFR Part 800.

§ 58.25 Projects requiring an EIS.

Preparation and dissemination of an EIS is required when the environmental review process, pursuant to § 58.15(d)(2), indicates that a project may have a significant environmental effect; and for the following types of projects:

(a) *Residential projects.* Residential projects which would remove, demolish, convert, or substantially rehabilitate existing housing units (but not including rehabilitation projects exempted under § 58.21(b)(4) of this Part), or which would construct or install housing units, or which would provide sites for housing units, in a quantity which equals or exceeds the applicable threshold as follows:

(1) Five hundred units for projects which are to be located outside a standard metropolitan statistical area (SMSA), or which are to be located within an SMSA county but beyond the urbanizing belt as defined in (3) below; or

(2) For projects which are to be located in the urbanizing belt of an SMSA county as defined in (3) below, the applicable threshold is that number in Table 1 opposite the population range that fits the SMSA county in which the project is to be located;

(3) Urbanizing belts are identified as the delineated urbanized areas, as defined by the Bureau of the Census, plus a 2-mile zone around the outer boundaries of such areas. In cases where this 2-mile zone borders or includes a portion of an incorporated place lacking census tracts, or, when the 2-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract, may be used to delineate the outer limit of the urbanizing belt. An urbanizing belt may extend into the county of an adjacent SMSA, using the applicable threshold of that county but in no case shall the urbanizing belt extend beyond the SMSA boundary.

Also, when an applicant can document that significant development has occurred beyond, but contiguous to, the defined urbanized area, HUD may approve redefinition of the urbanizing area plus a 2-mile belt beyond.

Table 1.—Automatic EIS Thresholds Applicable to Housing Projects

[For use in connection with § 58.25(a)]

SMSA county population range	Automatic threshold (units)
1,500,000=plus	2,500
1,000,000 to 1,499,999	2,100
750,000 to 999,999	1,800
600,000 to 749,999	1,500
500,000 to 599,999	1,200
400,000 to 499,999	1,000
300,000 to 399,999	800
200,000 to 299,999	800
100,000 to 199,999	700
50,000 to 99,999	600
Under 50,000	500

Notes.—The thresholds are applied to population figures for an SMSA county or county equivalent (independent city) based on the latest Bureau of the Census population estimates published in the P-25 Series of Current Population Reports. Although the initial application of these thresholds will be to population data for 1975, revised figures may be used as they become available for subsequent years. Where the population estimate for a given SMSA county indicates that there has been a loss in population since the last decennial census, the census figures from that decennial census may be used.

(2) It is recognized that in high density areas size alone need not necessarily imply a significant impact on the quality of the human environment. Therefore the numerical threshold requirements of this section for an EIS do not apply and are automatically waived for projects in which the number of dwelling units to be removed, demolished, converted or emplaced exceed the numerical thresholds in Table 1 when:

(i) Typical densities in immediate adjacent areas of such projects exceed 50 units per acre (or equivalent); and,

(ii) The projects are otherwise assisted by HUD and HUD has waived the requirements for an EIS pursuant to the general environmental review regulations set forth in HUD Circular 1390.1 (38 FR 19182, July 18, 1973 as amended).

Areawide waivers may be granted for large dense urban areas or sectors thereof having such high densities and meeting criteria established on a case by case basis.

(b) *Hospitals and nursing homes.* Projects which provide a site or sites for hospitals and nursing homes shall utilize the thresholds set forth above in § 58.25(a) and Table 1 therein, except that the term "bed" shall be substituted for the term "housing unit."

(c) *Water and sewer projects.* Water and sewer projects capable of supporting additional residential development in partially developed and undeveloped areas at an estimated scale which meets the applicable thresholds in Table 1. For nonresidential or mixed used areas, that portion of the hydraulic capacity allocable to additional development shall be converted into the equivalent number of housing units, using standard flows per unit for design assumptions, and the results compared with Table 1 for determining whether the threshold is met or exceeded. In determining net potential development, the applicant shall consider the basic design assumptions used in determining the hydraulic capacity of the project and the land uses contemplated within the service area. Allowances may be made for significant factors such as standby water capacity for fire flow or the storm water of combined sewers which do not

directly support new development, and for present development which is to be connected to or served by the project. However, the development potential of existing open areas along water or sewer lines as well as for the target service area must be included in the threshold calculation. The threshold calculation shall also be documented in the environmental review record.

(d) *Transitional EIS requirement.* The system of flexible EIS thresholds set forth in paragraph (a), (b), and (c) of this section is applicable upon the effective date of these regulations. However, since some environmental reviews will be in process when this change in thresholds becomes effective, the following transition rules shall apply to those situations where an EIS would have been required under the previous thresholds but will not be required under the new flexible thresholds.

(1) Where a draft EIS has been published for public comment, the EIS process, including the issuance of a final EIS, shall be completed or the termination process described in subparagraph (3) of this paragraph shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(2) Where a notice of intent to file an EIS has been published pursuant to § 58.17(a) but a draft EIS has not been published for public comment, the EIS process shall be completed or the termination process described in subparagraph (3) of this paragraph shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(3) Where an EIS already in process is to be terminated, as provided by subparagraph (1) or (2) of this paragraph, the applicant shall make the level of clearance finding set forth at § 58.15(d)(1) that a request for release of funds for the project is not an action which may significantly affect the quality of the human environment; shall give full consideration to all comments which may have been received in response to a notice of intent to file an EIS or in response to a draft EIS; shall comply with the requirements of § 58.16; and shall publish a notice of intent to terminate an EIS. Such notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b). However, if a draft EIS was published, EPA shall be requested to have such notice published in the Federal Register. The notice may be brief but shall identify the name, character, site, and location of the project for which further processing of an EIS is to be terminated, set forth the circumstances and reasons for discontinuing further EIS processing, indicate that the finding required by this subsection has been completed and indicate where and when it is available for public review, describe how any comments received in response to a notice of intent to file an EIS or in response to a draft EIS where considered, and state that the applicant proposes to submit the request for release of funds for the project under consideration in no less than fifteen (15) calendar days from the date the notice is published. This notice may be combined with the notices required by §§ 58.16(a) and by 58.30(a).

§ 58.26 [Reserved]

§ 58.27. Interaction of applicant with Federal agencies—Lead agency role.

(a) *Interaction with agencies other than HUD.* Where a project is to be jointly funded by one or more Federal agencies other than HUD and by HUD under Title I, and the preparation of an EIS is required by this part a single agency, either the applicant or the other Federal agency, should assume responsibility as the "lead agency" for the preparation and clearance of an EIS, with the other agencies providing assistance. In the event that the regulations of none of the Federal agencies other than HUD require an EIS for such project, but the applicant determines under this part that an EIS is required, then the applicant shall assume the "lead agency" role, or shall otherwise prepare an EIS, which shall comprehend the actions of the other Federal agency or agencies related to the project, as provided in the CEQ guidelines, 40 CFR 1500.7(b).

(b) *Joint reviews—Designation of lead agency.* All determinations respecting joint environmental review or designation of a "lead agency" to perform an environmental review shall be made and agreed upon between the applicant and any Federal agency involved, where practicable. In the event an applicant and a Federal agency are unable to reach such agreement, the applicant shall notify HUD, and HUD, with the advice and assistance of CEQ, will seek to obtain such agreement.

§§ 58.28-58.29 [Reserved]

§ 58.30 Release of funds upon certification.

An applicant which has completed all applicable environmental review and clearance requirements as provided in this Part with respect to a proposed project and which desires to submit a request to HUD for the release of Title I funds for the project, shall comply with the following:

(a) *Publication of notice.* An applicant, at least 7 calendar days prior to submitting the request for release of funds and certification, shall publish and disseminate, a notice to the public doing so in the same manner as a notice of intent to file an EIS, as described at § 58.17(b), using format VII of HUD-399-CPD, Environmental Reviews At The Community Level, or such other equivalent format as may be used by the applicant. An applicant may publish this notice at the same time as that required by § 58.16(b).

(b) *Request for release of funds.* A request for release of funds pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, shall be executed by the certifying officer and may be submitted with or as part of an application, or at any time after submittal of an application. Such request shall in all cases be accompanied by the certification of the applicant as stated at § 58.30(c) and shall:

(1) State the name and address of the applicant;

(2) State that the applicant requests the release of funds for particular projects, identify such projects; and

(3) Be accompanied by the certification described in paragraph (c) of this section.

(c) *Certification.* A certification pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, and shall:

(1) State the name and address of the applicant and be executed by the certifying officer;

(2) Specify that the applicant has fully carried out its responsibilities for environmental review decisionmaking and action pertaining to the projects named in the request for release of funds;

(3) Specify the levels of all environmental clearances carried out by the applicant in connection with each project pertaining to the certification;

(4) Specify the dates upon which any statutory or regulatory time period for review, comment, or other response or action in regard to each such environmental clearance commenced and has expired, or will expire, and that with the expiration of each statutory or regulatory time period the applicant is in compliance with the requirements of this Part;

(5) Specify that the certifying officer is authorized to consent to assume the status of a responsible Federal official, under NEPA, insofar as the provisions of NEPA apply to the HUD responsibilities for environmental review, decision

making and action assumed and carried out by the applicant, and that the certifying officer by so consenting, such officer assumes the responsibilities, where applicable, for the conduct of environmental reviews, decision making, and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements on behalf of Federal agencies other than HUD when such agencies consent to such assumption;

(6) Specify that the certifying officer is authorized to consent, on behalf of the applicant, to accept the jurisdiction of the Federal courts, for the enforcement of all responsibilities referred to in § 58.30(c)(5); and that the certifying officer so consents on behalf of the applicant and himself in his official capacity only;

§ 58.31 Objections to release of funds.

HUD shall not approve the release of funds for any project until fifteen (15) calendar days have elapsed from the time HUD shall have received the applicant's request for the release of such funds and the certification pertaining thereto or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time. Applicants shall not commit any funds which are the subject of any request for the release of funds to any project prior to HUD's approval of such request. Any person or agency may object to an applicant's request for the release of funds and the certification pertaining thereto, but HUD will consider such objections only if the conditions and procedures set forth in this section are satisfied. HUD can refuse the request and certification on any grounds set forth in paragraph (b) of this section. Any decision by HUD approving or disapproving the request for the release of funds and the certification pertaining thereto shall be final.

(a) *Time for objecting.* HUD must receive objections within fifteen (15) days from the time HUD shall have received the applicant's request for the release of funds and the certification pertaining thereto, or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time.

(b) *Permissible bases.* (1) That the certification was not, in fact, executed by the certifying officer of the applicant;

(2) That the applicant has failed to make one of the two level of clearance findings pursuant to § 58.15(d), or to make the decision required by § 58.19(b), for the project, as applicable;

(3) That with regard to a project for which the level of clearance finding in § 58.15(d)(1) was made, the applicant has omitted one or more of the steps set forth at: § 58.15(a); § 58.15(b); § 58.15(c)(1); § 58.15(c)(2); § 58.16(a); or § 58.16(b);

(4) That with regard to a project for which the level of clearance finding in § 58.15(d)(2) was made, the applicant has omitted one or more of the steps set forth at: § 58.17(a); § 58.17(b); § 58.17(c) only if applicant has decided to conduct a public hearing as a part of its environmental review of the project; § 58.17(e); or § 58.17(f);

(5) That with respect to a property listed on the National Register of Historic Places, or found to be eligible by the Secretary of the Interior pursuant to 36 CFR Part 800 for inclusion in such Register, and which is affected by the project, no opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on the property in accordance with the procedures set forth at 36 CFR Part 800; or

(6) That with respect to a project for which the applicant has decided that § 58.19(b) applies, the applicant has failed to include in the environmental review record the written decision required pursuant to § 58.19(b) or that the applicant's decision is not supported by facts specified by the objecting party; or,

(7) That another Federal agency, acting pursuant to Section 309 of the Clean Air Act, or Section 102(2)(C) of NEPA and implementing regulations, has submitted a written finding to HUD that an applicant's project is unsatisfactory from the standpoint of public health or welfare or environmental quality. This finding shall set forth at least the following:

(i) The Federal agency basis for stating that the applicant's project will have potentially adverse environmental impacts which would cause the violation of national environmental standards or policies or would be of such a severity, geographical scope, duration, or importance as precedent as to warrant HUD's disapproving the release of funds and the certification pertaining thereto;

(ii) The Federal agency's consultations with the applicant and the basis for failure to reach a satisfactory agreement;

(iii) Factual evidence that the project is environmentally unsound;

(iv) Recommendations for mitigation, alternatives, or other courses of action needed to make the project environmentally acceptable.

(c) *Public and agency objections.* The only bases upon which HUD will consider the objection of any person or agency to the certification of an applicant, or to the approval by HUD of such certification, are set forth at § 58.31(b). Other objections will not be considered by HUD; but may be addressed to the applicant, and the certifying officer of the applicant.

(d) *Procedure.* A person or agency objecting to an applicant's request for the release of funds and the certification pertaining thereto shall:

(1) Submit such objection in writing, to the HUD officer authorized to receive the application of the applicant;

(2) Specify the name, address, and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of the agency;

(3) Be dated when signed;

(4) Specify the bases for objection and the facts or legal authority relied upon in support of the objection;

(5) Indicate that a copy of the objections has been mailed or delivered to the chief executive officer of the applicant.

§ 58.32 Effect of approval of certification.

(a) *NEPA responsibilities of HUD.* The approval by HUD of the certification of an applicant is deemed to satisfy the responsibilities of the Secretary under NEPA insofar as those responsibilities relate to the applicant and releases of funds under Title I for projects which are covered by such certification.

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental assessments covered by an approved certification shall deal with the applicant and not with HUD. It shall be the policy of HUD, following the approval of a certification, not to respond to inquiries and complaints seeking such redress, and only to refer such inquiries and complaints to the applicant and the certifying officer of the applicant. Other remedies for noncompliance, in addition to those stated in this part, are set forth at 24 CFR 570.910–913.

(Sec. 7(d). Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., May 17, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[FR Doc. 79-16239 Filed 5-23-79; 8:45 am]

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federal register

Thursday
May 24, 1979

Part IV

Department of Energy

Loans for Small Hydroelectric Power Project Feasibility Studies and Related Licensing

DEPARTMENT OF ENERGY

[10 CFR Part 797]

Loans for Small Hydroelectric Power Project Feasibility Studies and Related Licensing; Proposed Rulemaking; Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) hereby gives notice of its proposed implementation of loans for small hydroelectric power project feasibility studies and related licensing as authorized by Title IV Small Hydroelectric Power Projects, under the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617). Written comments are requested on these proposed regulations and public hearings will be held with respect to this proposal in accordance with Executive Order 12044 "Improving Government Regulations", 43 FR 12661 (1978), and DOE's implementing Order 2030.1, 44 FR 1032, Jan. 3, 1979.

The proposed regulation establishes the qualifications, criteria and procedures for obtaining a loan for the purpose of defraying up to 90 percent of the cost of a study to determine the feasibility of undertaking a small hydroelectric project at an existing dam and for preparing applications for a necessary license or other required approval.

DATES: Written comments by July 23, 1979 4:30 p.m.; requests to speak by June 11, 1979, 4:30 p.m.

Hearing dates: Boston, MA, July 2, 1979; Seattle, WA, June 25, 1979; Washington, D.C., June 28, 1979. Each meeting may extend an additional day if necessary.

ADDRESSES: All comments to:

Department of Energy, Farwell Smith, 12th and Pennsylvania Ave. NW., Room 7104, Washington, D.C. 20461.

Request to Speak: Boston hearing:

Harold J. Keohane, Analex Building, Room 700, 150 Causeway Street, Boston, MA 02114.

Seattle hearing:

Jack B. Robertson, 1900 Federal Building, 915 Second Ave., Seattle, WA 91874.

Washington Hearing:

Farwell Smith, 12th and Pennsylvania Ave. NW., Room 7104, Washington, D.C. 20461.

Hearing Locations:

Boston: One Federal Street, Conference Room—8th Floor, Boston, MA.

Seattle: Federal Building, 915, Second Avenue, Seattle, South Auditorium, 4th Floor.

Washington, D.C.: Forrestal Building, 1000 Independence Ave. SW., Room GE-086, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Department of Energy, Farwell Smith (Office of Resource Applications), 12th and Pennsylvania Avenue, NW., Room 7104, Washington, D.C. 20461, 202-633-8910.

Department of Energy, George Samels, OGC, 12th and Pennsylvania Avenue, NW., Room 3001, Washington, D.C. 20461, 202-633-8435.

The information requirements specified in this notice have been approved by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act. The OMB clearance number is 038-R-0414.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Comment Procedures.

I. Background

Title IV—Small Hydroelectric Power Projects of the Public Utility Regulatory Policies Act of 1978, Public Law 95-617, (hereinafter, "Title IV") directs the Secretary of Energy to establish a program to encourage the development of small hydroelectric power projects at the site of existing dams which are not being used to generate electric power.

Title IV includes authority to the Secretary to provide direct loans for a percentage of the costs of performing feasibility studies and of obtaining the necessary licenses and permits for small hydroelectric projects. It includes, also, authority for simplified Federal Energy Regulatory Commission licensing and authority for Department of Energy loans for construction costs.

This proposed regulation implements the authority in Title IV as regards loans for feasibility studies and for acquiring necessary licenses and permits.

Title IV authorizes the Secretary to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person (broadly defined to include a variety of entities including, among others, individuals, partnerships, associations and corporations) to assist such person in defraying up to 90 percent of the costs of 1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and 2) preparing any application for a necessary license or other Federal, State and local approval respecting such a project at an existing dam or dams and in participation in any administrative proceeding regarding any such application. The Secretary may cancel the unpaid balance and any accrued interest on any of the above loans if he determines that the small hydroelectric power project would not be technically or economically feasible or environmentally acceptable.

The interest rate of loans will be the discount or interest rate used at the time the loan is made for water resources planning projects under Section 80 of the Water Resources Development Act of 1974. This rate has been established at 6⅞ percent for the Federal Government's 1979 fiscal year, ending September 30. The discount rate is presently permitted to change no more than ¼ percent, from one year to next. It is anticipated that the rate will increase by ¼ percent in FY 1980, and will probably increase in future years. The term of these loans may not exceed 10 years.

This proposed regulation establishes the procedure to apply for a loan, including matters of eligibility and the content of the application. Further, this regulation establishes criteria for approval of loan applications, specifies the requirements of the completed feasibility study and indicates general loan terms, including monitoring and repayment and, in certain cases, cancellation of the loan. Miscellaneous matters, such as confidentiality of information supplied in connection with a loan, are also covered. This proposed regulation sets out priority to be accorded licensing loan applicants over applicants for feasibility study loans; priority among licensing loan applicants; certain specified factors which may additionally affect the priority to be given an applicant; and, the percentage of allocation of available funds to licensing loans each fiscal year.

Title IV of the Act limits loans to projects which will have installed a maximum capacity of 15,000 kw or less. This proposed regulation further limits loans to projects which will have installed capacity of 100 kw or more.

Title IV further authorizes for each of Fiscal Years 1978, 1979, and 1980 $10,000,000 in loans for feasibility studies and for preparation of licensing applications, such funds to remain available until expended. Ten million dollars has been appropriated in fiscal year 1979 for such loans. Requests for loans will be considered after publication of final rulemaking. Requests for loans may be submitted prior to final rulemaking. However, when this regulation becomes final, the request must be updated to meet

additional requirements, if any, of the final regulation. Any requests for loans should be sent to DOE Idaho, 550 Second Street, Room 107, Idaho Falls, Idaho 83401, Attention: Al Hymer (208-526-1456), or to one of the DOE Regional Representatives listed below.

Region I: Harold J. Keohane, Analex Bldg., Room 700, 150 Causeway St., Boston, MA 02114 (617) 223-3701.

Region II: Robert A. Low, 26 Federal Plaza, Room 3206, New York, NY 10007 (212) 264-1021.

Region III: Barnard Snyder (Acting), 1421 Cherry Street, 10th Floor, Philadelphia, PA 19102 (215) 597-3890.

Region IV: Roy Pettit (Acting), 1655 Peachtree St. NE, Atlanta, GA 30309 (404) 881-2838.

Region V: Robert H. Bauer, 175 West Jackson Blvd., Room A-333, Chicago, IL 60604 (312) 353-0540.

Region VI: Curtis E. Carlson, Jr. (Acting), P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235 (214) 749-7345.

Region VII: Mary O'Halloran, 324 East 11th Street, Kansas City, MO 64106 816-374-2061.

Region VIII: Charles F. Metzger, P.O. Box 26247 Belmar Br., 1075 South Yukon Street, Lakewood, CO 80226 303-234-2420.

Region IX: William C. Arntz, 111 Pine Street, Third Floor, San Francisco, CA 94111 415-566-7216.

Region X: Jack B. Robertson, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174 206-442-7280.

Title IV also provides for loans for hydroelectric project construction. These loans will be the subject of separate regulations, and are not covered in these proposed regulations. No funds have been appropriate in fiscal year 1979 for such construction loans.

II. Comment Procedures

A. Written Comments

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Written comments should be submitted by July 23, 1979, 4:30 p.m., e.d.t., to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on the document with the designation "Loans For Feasibility Studies for Small Hydroelectric Power Projects." Ten copies should be submitted.

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

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections of this preamble.

If you have an interest in the proposed rulemaking issued today, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by June 11, 1979, 4:30 p.m. You should be prepared to describe the interest concerned and, if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., June 14, 1979. Ten copies of your statement should be delivered to the appropriate "Request to Speak" address by the following dates: Boston, June 27; Seattle, June 22; Washington, D.C., June 22.

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

An Office of Resource Applications official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., on the last business day preceeding the date of the hearing. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the Office of Resource Applications and made available for inspection at the DOE Freedom of Information Office, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C., 20585 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

In accordance with DOE Order 2030.1 implementing Executive Order 12044, "Improving Government Regulations," the Assistant Secretary for Resource Applications has determined that this proposed regulation is significant, since it is related to the National Energy Act, but will not have major economic consequences nor a substantial effect on existing energy objectives or statutes, nor adversely affect competition.

Text of the Authorizing Legislation

For convenience, the text of Title IV Small Hydroelectric Power Projects under the Public Utility Regulatory Policies Act is printed below. Title IV includes both *Loans For Feasibility Studies,* which is the subject of this proposed rulemaking, and *Loans For Project Costs,* which will be covered in a subsequent rulemaking.

Sec. 401. Establishment of program.

The Secretary shall establish a program in accordance with this title to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

Sec. 402. Loans for feasibility studies.

(a) Loan Authority.—The Secretary, after consultation with the [Federal Energy Regulatory] Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

(b) Cancellation.—The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power

project would not be technically or economically feasible.

Sec. 403. Loans for project costs.

(a) Authority.—The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for a period of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

(b) Preference.—The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

(c) Information.—Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the public, other than information described as entitled to confidentiality under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, [Pub. L. 93-319; 88 Stat. 246].

(d) Joint Participation.—In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

Sec. 404. Loan rates and repayment.

(a) Interest.—Each loan made pursuant to this title shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act 1974 (42 U.S.C. 1962 [d] 17(a)). Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 402) or

(2) 30 years (in the case of a loan under section 403).

(b) Repayments.—Amounts repaid on loans made pursuant to this title shall be deposited into the United States Treasury as miscellaneous receipts.

Sec. 405. Simplified and expeditious licensing procedures.

(a) Establishment of Program.—The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a program to use simple and expeditious licensing procedures under the Federal Power Act for small hydroelectric power projects in connection with existing dams.

(b) Prerequisites.—Before issuing any license under the Federal Power Act for the construction or operation of any small hydroelectric power project the Commission—

(1) Shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) Shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any such project under the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

(c) Fish and Wildlife Facilities.—The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

Sec. 406. New Impoundments.

Nothing in this title authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

Sec. 407. Authorizations.

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 402, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 403, such funds to remain available until expended.

Sec. 408. Definitions.

For purposes of this title, the term—

(1) "Small hydroelectric power project" means any hyroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 15,000 kilowatts of installed capacity;

(2) "Electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(3) "Industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

(4) "Project costs" means the cost of acquisition or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) "Nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

(6) "Existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or englargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) "Municipality" has the meaning provided in section 3 of the Federal Power Act; and

(8) "Person" has the meaning provided in section 3 of the Federal Power Act.

Issued in Washington, D.C., May 17, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

Accordingly, it is proposed to add a new Part 797 to Title 10, Code of Federal Regulations, as follows:

PART 797—LOANS FOR SMALL HYDROELECTRIC POWER PROJECT FEASIBILITY STUDIES AND RELATED LICENSING

Sec.

797.01 General purpose.
797.02 Priority considerations.
797.03 Definitions.
797.20 Eligibility requirements.
797.21 General application requirements.
797.30 Purpose of loans.
797.40 Approval procedure and requirements.
797.50 Loan agreement and terms.

797.60 Project monitoring and audit.
797.70 Assignment or transfer of loan.
797.80 Cancellation.
797.90 Default.
797.100 Disclosure.
797.200 Noninterference with Federal, State and Local requirements.
797.300 Overall program considerations.
797.400 Nondiscrimination in Federally assisted programs.

(Sec. 401 Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617; 92 Stat 3117; 16 U.S.C. 2701 note; and Sec. 644, Department of Energy Organization Act, Pub. L. 95-91; 91 Stat 565; 42 U.S.C. 7101 et. seq.)

§ 797.01 General purpose.

The purpose of this regulation is to establish the application procedure for two kinds of loans. One is a loan to defray a percentage of the costs to study the feasibility of developing a small hydroelectric power project in connection with an existing dam which is not being used to generate electric power. The other is a loan to defray a percentage of the costs to prepare an application for a necessary license or other Federal, State or local approval respecting such a project and to participate in any administrative proceeding regarding such application. Additional purposes are to specify (a) the requirements of the feasibility study and of the licensing application, (b) the borrower's obligations under a loan, (c) when the Secretary may cancel the obligation to repay the loan, and (d) priorities to be accorded kinds of applications. The purpose of the direct loan program whose procedures and obligations are set forth in this regulation is to aid in the development of this Nation's energy resources.

§ 797.02 Priority considerations.

(a) The Secretary will give applications for licensing loans priority over applications for feasibility study loans, because licensing loan applications must be based on completed feasibility studies (see § 797.40(b)(1)(ii), below) and thus will be typically closer in time to achieving the goal of the small hydroelectric power projects program, which is to put power from qualified projects on line. Initial consideration will be given in the order received, but time required for complete processing of an application may vary from case to case.

(b) Among licensing loan applications pertaining to proposed project sites which are subject to Federal Energy Regulatory Commission (FERC) permit or license jurisdiction, the Secretary will give priority consideration to those applicants who already hold a preliminary permit for the project. Between applicants who have applied for, but not yet received, such permit, the Secretary may, other factors being substantially equal, accord priority in his discretion to the earlier applicant to FERC.

(c) Among licensing loan applications pertaining to proposed project sites which are not subject to FERC permit or license jurisdiction, the Secretary may accord priority to applicants whose projects, in his judgment, are likely to receive relatively expeditious State or local licensing or permitting approval.

(d) Feasibility study loan applications will be given initial consideration in the order received, subject to the general priority accorded licensing loan applications.

(e) In addition the Secretary may take into account other pertinent factors in determining the priority to be accorded a particular licensing or feasibility study loan application. These factors include, but are not limited to, the following; where one or more is present, it may be regarded as affecting the priority to be accorded a loan application.

(1) The potential of the hydroelectric power project to save oil or gas.

(2) Applicant's need for, and ability to consume, a substantial part of the hydroelectric power to be generated by the project.

(3) The likelihood that the project will be carried through to completion relatively expeditiously.

(4) Need for substantial revision of the application in order to achieve compliance with this regulation.

(5) Disparity between the size of the loan sought and the size of the contemplated project.

(6) Evident, substantial environmental implications.

(f) Thirty-five percent of the amount available for loans during a fiscal year will be allocated to licensing loans. The Secretary, at his discretion, may adjust the allocation so reserved, to provide additional funds for licensing loans or for feasibility study loans as may be appropriate to respond to developments in the small hydroelectric power project loan program.

§ 797.03 Definitions.

For purposes of this part.

(a) "small hydroelectric power project" means a proposed hydroelectric power project which will be located at the site of an existing dam, or dams in the United States, its territories or possessions, which is not being used to generate electric power, which will use the water power potential of such dam(s), and which, when completed, will have an installed capacity of not more than 15,000 kilowatts, nor less than 100 kilowatts;

(b) "electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(c) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

(d) "nonprofit organization" means any organization described in §§ 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

(e) "existing dam" means any dam, the construction of which was completed on or before April 20, 1977, which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(f) "municipality" means a city, county, irrigation district, drainage district or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing or distributing power;

(g) "person" includes an individual, corporation, joint stock company, partnership, association, business trust, organized group of persons (whether incorporated or not), receiver or trustee of any of the foregoing;

(h) "Secretary" means Secretary of Energy or his designated representative.

(i) "statutory interest rate" means the discount or interest rate, used at the time the loan is made, for water resources planning projects under Section 80 of the Water Resources Development Act of 1974, 42 U.S.C. § 1962d-17(a);

(j) "feasibility study loan" means a loan for a study to determine the technical and economic feasibility and environmental acceptability of undertaking a small hydroelectric power project at an existing dam or dams;

(k) "licensing loan" means a loan for preparing an application for a necessary license or other Federal, State, and local approval respecting a small hydroelectric power project and participating in any administrative

proceeding regarding any such application;

(l) "loan agreement" means a contractual instrument executed between the United States as lender and a borrower, which sets forth the terms and conditions for provision of funds by the United States to the borrower incidental to a feasibility study loan or a licensing loan and for repayment of the loan by the borrower;

(m) "Commission" means the Federal Energy Regulatory Commission [FERC].

§ 797.20 Eligibility requirements.

Applicants for any loan under this part, to be eligible to receive such a loan, may be a municipality, electric cooperative, industrial development agency, nonprofit organization, individual, corporation, joint stock company, partnership, association, business trust, organized group of persons (whether incorporated or not), receiver(s) or trustee(s) of any of the foregoing, or a combination of the foregoing. Applicants may not be Federal agencies. Applicants must meet any requirement of United States citizenship applicable because the proposed project site is subject to FERC permit or license jurisdiction or otherwise applicable as a permit or license requirement under State or local law.

§ 797.21 General application requirements.

(a) Applications for feasibility study loans and licensing loans shall include financial, scheduling and other background information in support of the application. This information will be used as the basis for the Secretary's determination whether the applicant is capable of successfully completing the feasibility study or undertaking the applicable licensing and permitting requirements and subsequently constructing and operating the proposed small hydroelectric power project. Information previously provided by a feasibility study loan applicant need not be repeated at the time of applying for a licensing loan if unchanged. Elements of required information include:

(1) A list of all key personnel and major contractors and consultants who are proposed to be involved in the feasibility study or licensing or permitting effort with their functions and responsibilities.

(2) A narrative description of the major tasks required to perform the study or obtain the license and a proposed schedule for the completion of the study or licensing process, including a schedule for the completion of individual major tasks. Information should be provided to show that adequate experience exists within the organization to meet the schedule and to work within the cost constraints of the loan.

(3) A description of any other Federal financial assistance (e.g., direct loans, guaranteed loans, grants) expected to be applied for or already applied for or obtained by the applicant in connection with the project.

(4) A current financial statement of the proposing entity. This should include a balance sheet (except in the case of individual applicants) and a source of revenue statement. A licensing loan applicant must further provide a CPA or equivalent certification of the financial statement.

(5) A proposed method of repaying the loan.

(6) A brief description of the proposing entity (or entities), including size, type of business, and history.

(7) A brief summary of estimated feasibility study or licensing application costs by major tasks and the estimated total cost.

(8) The amount of the loan being requested and a description of the applicant's proposed equity contribution.

(9) Affidavit(s) of the United States citizenship where applicable (see § 797.20).

(10) If the applicant is an association, a verified copy of its articles of association, and verification of its status, if any, as a nonprofit organization.

(11) If the applicant is a corporation, a copy of the charter or certificate and articles of incorporation, with all the amendments, duly certified by the Secretary of State of the State where organized, and a copy of the by-laws. If the small hydroelectric power project is located in a State other than that in which the corporation is organized, a certificate shall be included from the Secretary of State of the State in which the project is located showing compliance with the laws relating to foreign corporations. There shall also be included a copy of all minutes, resolutions of stockholders or directors or other representatives of the applicant, properly attested, authorizing the filing of the application.

(12) If the applicant is a State a copy of the laws under the authority of which the application is made.

(13) If the applicant is a municipality, a copy of its charter or other organization papers, duly certified by the Secretary of State of the State in which it is located, or other proper authority, with a copy of the State laws authorizing the operations contemplated by the application.

(14) The basis upon which the applicant has, or proposes to obtain, arrangements for access to the proposed project site adequate to perform the feasibility study, and rights of possession at, and rights of access to, the site (including easements and rights of way) necessary to construct and operate the project.

(15) The status of any permit or license application to FERC for the project at the proposed site (or a statement by FERC that the site is not subject to its jurisdiction) and of any other such application by the applicant to a State or local agency.

(b) Applications for *feasibility study loans* shall include the following:

(1) A narrative description of the proposed site to be studied which should address, but not necessarily be limited to, the following, to the extent that such information is reasonably available:

(i) the number, physical composition, dimension (including height of head), general configuration, age and condition, of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, to be included as part of the project;

(ii) the number, surface area, storage capacity, and normal maximum surface elevation of any reservoirs to be included as part of the project;

(iii) the number, length, voltage, interconnections, age and condition, of any transmission lines to be included as part of the project;

(iv) a preliminary indication of capacity potential and average annual energy generation and the most likely customers for the power which would be produced.

(v) a preliminary estimate as to sale price of power;

(vi) stream characteristics (yearly flow patterns, downstream dependence on streamflows, etc.); and,

(vii) any other pertinent information which would aid the Secretary in understanding the setting in which the facility will be built, particularly those factors which may make the setting important or unique, including eligibility for or inclusion in the National Register of Historic Places of any structures or sites in the vicinity of the proposed project.

(2) Maps and pictures describing site characteristics, with particular reference to proximity of United States lands or of areas designated wilderness areas or otherwise restricted from development under Federal, State or local law.

(3) A report from the Corps of Engineers on the safety of the dam or dams at the project site if available.

(4) Substantial environmental implications known to the applicant including information covering the presence of any rare or endangered species in the area of the project and the possible need to accommodate migratory fish by installation of fish ladders.

(c) Applications for a *licensing loan* shall include in addition to the information specified in subsection (a), a copy of the completed feasibility study acceptable to the Secretary and conforming to the requirements indicated in section 797.30.

(d) In addition to the above required information the loan applicant shall supply such other information as the Secretary may deem necessary to fully consider the request for a loan.

§ 797.30 Purpose of loans.

(a) Feasibility Study Loans.

(1) The purpose of a feasibility study loan is to defray expenses to be incurred in preparing a study which should address, but is not limited to, the following items.

(i) Expected configuration and capacity of the proposed hydroelectric power facility.

(ii) Anticipated performance characteristics of the facility, including potential peak power production, and estimated average annual energy production.

(iii) Engineering acceptability of the site for hydroelectric power development.

(iv) Land and interests in land necessary to construct and operate the facility, and the availability and cost of acquisition of such land and interests in land.

(v) Initial assessment of the safety hazards, if any, introduced by the installation or rehabilitation of the power plant and appurtenances.

(vi) License requirements and other required Federal, State and local approvals necessary for construction and operation of the project, and a plan for fulfilling these requirements.

(vii) An assessment of the prospective environmental impact of the project including, particularly, impact on other water resource needs of the area and on current use, if any, of the reservoir. The assessment should also address other perceived social and institutional factors, as appropriate.

(viii) Availability of a suitable turbine(s), generator(s) and accessories required for the facility.

(ix) Plan for transmitting power from the project to intended user.

(x) Total estimated cost of the project and cost per kwh produced.

(xi) Anticipated annual operation and maintenance costs.

(xii) Schedule for putting power on line.

(xiii) Plan for marketing the power including description of present and prospective power user groups and estimated revenues or value to be derived from power produced.

(xiv) Anticipated project life.

(2) The goal of the feasibility study is to determine, through engineering and economic analysis and consideration of environmental and institutional requirements, whether the proposed small hydroelectric power project is technically and economically feasible and environmentally sound as a supplier to an existing power grid or as an independent contributor of power for local application or a combination of both.

(3) The study should include a benefit/cost analysis of the project. When applicable a plan should be presented for financing the project. This plan should use realistic assumptions regarding interest rates and debt amortization schedules and should indicate the ability of the project to meet these requirements and provide an adequate return on investment, when applicable. A cash flow statement covering at least the first 10 operating years of the project should be included as part of the study, when appropriate.

(4) The feasibility study should include an estimate itemizing the cost of pursuing an application for a necessary license or other Federal, State and local approval respecting the project, including participation in any administrative proceeding regarding any such application.

(b) Licensing Loans.

The purpose of a licensing loan is to defray expenses incurred in preparing an application for a license or other Federal, State and local approval required for a proposed small hydroelectric power project, and in participating in any administrative proceeding regarding such project.

§ 797.40 Approval procedure and requirements.

(a) Feasibility Study Loans.

(1) If a proposed project site is subject to FERC permit or license jurisdiction, the Secretary will consult with FERC before making a feasibility study loan, to determine whether any other applicant may be entitled to priority consideration by reason of the issuance by FERC of a preliminary permit under subchapter I of the Federal Power Act, 16 U.S.C. section 791a, and following. The Secretary shall take such priority into consideration in determining whether or not to make a feasibility study loan to the applicant.

(2) The Secretary will evaluate information provided in the loan application, or otherwise available, to determine whether the following conditions, which shall be required for issuance of a feasibility study loan, have been met, and will indicate his findings thereon:

(i) The applicant has, or is in process of obtaining, arrangements for access to the proposed project site sufficient for applicant to perform the study;

(ii) The Secretary has no reason to believe that the applicant cannot acquire lands and interest in lands necessary to construct and operate the proposed hydroelectric facility;

(iii) There exists a reasonable likelihood that the applicant or other person who will undertake the study is capable of performing it, that the applicant will repay the loan, and that the project may be found to be both technically and economically feasible and environmentally acceptable (such determination as to economic feasibility to include consideration of costs associated with environmental and safety factors); and,

(iv) All requirements of this regulation pertaining to the issuance of the feasibility study loan have been found to be satisfied.

(3) In cases where there are two or more proposed projects located upon the same waterway, the Secretary may approve one loan for a single feasibility study dealing with all such projects (in which the persons proposing the projects will jointly participate with rights and obligations hereunder exactly the same as if their participation were on a separate basis) even though such projects are proposed by different persons, if he finds that to do so would avoid unnecessary duplication of effort and costs and would provide adequate information to make a determination concerning the feasibility of all such projects.

(b) Licensing Loans.

(1) The Secretary will evaluate information provided in the loan application and accompanying feasibility study, or otherwise available, to determine whether the following conditions, which shall be required for issuance of a licensing loan, have been met, and will indicate his findings thereon:

(i) If the proposed project site is subject to FERC permit or license jurisdiction, that the applicant has applied to FERC for a preliminary permit under subchapter I of the Federal Power Act, in which case the applicant may not receive a licensing loan for the project until the applicant holds such a preliminary permit for the project;

(ii) The applicant has submitted a feasibility study which conforms to the requirements and purpose indicated in § 797.30 and tends to establish that the proposed small hydroelectric power project is technically and economically feasible and environmentally acceptable (such determination as to economic feasibility to include consideration of costs associated with environmental and safety factors);

(iii) There exists a reasonable likelihood that the applicant will repay the loan; and,

(iv) All requirements of this regulation pertaining to the issuance of the licensing loan have been found to be satisfied.

(c) In determining whether or not to make a feasibility study loan or licensing loan, as well as in determing the percentage of costs such loan will defray, the Secretary may take into consideration the cost of the work as it relates to the size and output of the proposed hydroelectric power facility, and such other matters as, in his judgment, bear reasonably on the ultimate success or failure of the proposed small hydroelectric power project. See, also, section 797.50(d) regarding loan limits.

(d) In making the determinations referred to in this section, the Secretary may consider information provided by a visit to the proposed site by his representative.

§ 797.50 Loan agreement and terms.

(a) The loan agreement shall be in writing and shall provide that the borrower agrees to repay the loan, unless forgiven, and the Secretary agrees to make the loan.

(b) The loan agreement shall provide the following in addition to such other provisions as the Secretary may deem appropriate:

(1) The interest rate on the loan will be at the statutory interest rate.

(2) The loan may be repaid over a period of 10 years with the following specific requirements for payments:

(i) No payments of principal or interest are required for the first 3 years after disbursement.

(ii) Beginning on the 4th anniversary date, the accrued interest, which will include interest charged on unpaid interest, shall be added to the outstanding principal balance and 1/7 of that total shall be due at such time.

(iii) Each anniversary date thereafter, 1/7 of the total computed in subparagraph (ii) above shall be due plus all interest accrued in the previous year on the unpaid balance of the loan.

(iv) Prepayments may be made at any time without penalty.

(3) The provisions of subsection (2) above shall be altered, to the extent necessary, by the following circumstances:

(i) The Secretary forgives repayment of interest and principal as permitted in § 797.80.

(ii) Construction is undertaken on the proposed hydroelectric power project, in which event the cost of the study should be part of the financing for such project and the loan repaid out of the proceeds of any construction loan. To insure compliance with this provision, the loan agreement shall provide the Secretary with the option of accelerating the repayment of any loan made under this regulation and demanding payment in full any time after the expiration of 60 days from the date construction has begun on the project.

(4) The Secretary shall require that each loan be secured to the extent that the Secretary determines necessary and appropriate to offer a reasonable assurance of repayment to the Government.

(5) Payments required by the loan agreement, if not made when due, shall accrue interest at a rate specified in the loan agreement, but not less than 10 percent per annum.

(6) The loan may defray up to 90 percent of the costs of the feasibility study and of preparing any application for a necessary license or other Federal, State, and local approval respecting such a project and of participating in any administrative proceeding regarding such application. No part of the loan shall be used to defray any fee charged by any Federal, State or local agency as a condition of receiving a license or other approval nor any cost associated with a finder's fee. A loan may defray reasonable and customary costs directly related to the project and entailed in the engineering, financial, legal, environmental, social and institutional considerations necessary to the study and in the licensing endeavors of an applicant.

(7) The borrower will be required to make periodic reports as to the progress of the feasibility study or licensing application.

(c) Costs allowable under subsection (b)(6) and incurred by a borrower prior to signing the loan agreement will be credited toward the borrower's share of costs but in no case will such costs be reimbursable from proceeds of the loan.

(d) Except in unusual cases with good cause shown, loans will not exceed $50,000.

(e) Requests for disbursements at closing and thereafter shall be supported by such documents as the Secretary may require.

§ 797.60 Project monitoring and audit.

The loan agreement shall provide that the borrower keep such records concerning the small hydroelectric power project as may be necessary for an effective audit and performance evaluation of the project, and that the Secretary have access, for the purpose of audit and examination, to any pertinent records or other documents of the borrower during the regular business day.

§ 797.70 Assignment or transfer of loan.

The loan agreement shall provide that assignments of the loan and obligations contained thereunder may be made only with the written consent of the Secretary.

§ 797.80 Cancellation.

(a) The Secretary may cancel the unpaid balance and any accrued interest on any feasibility study loan if he determines on the basis of the study, or on the basis of any other information available to him, that the small hydroelectric power project would not be technically or economically feasible or environmentally acceptable. The Secretary's determination to cancel the loan may be made prior to the completion of the study or afterwards.

(b) The Secretary may cancel the unpaid balance and any accrued interest on any licensing loan if he determines, on the basis of information available to him, that the small hydroelectric power project would not be technically or economically feasible or environmentally acceptable.

(c) In determining economic feasibility the Secretary shall be guided by his determination of the ability of the proposed project to support financing appropriate to carry out the project and available to the applicant for the project under reasonable terms and conditions.

(d) The Secretary may cancel the unpaid balance and any accrued interest on a loan to a borrower who, in the Secretary's judgment, has been or will be unable to obtain a necessary license respecting the project, or any right necessary to construct and operate the project, for a reason beyond the

borrower's control and despite borrower's good faith effort to do so.

(e) The Secretary will not cancel the unpaid balance or accrued interest on any feasibility study or licensing loan if he finds that the borrower, in applying for the loan, (1) failed to provide information reasonably available to such borrower which would have indicated that there was not a reasonable likelihood that the project would be found to be technically and economically feasible and environmentally acceptable, or (2) withheld information indicating that the borrower would be unable to obtain a license, approval or right necessary to the project.

(f) In the event of cancellation of unpaid balance or accrued interest under this section, 1) the Secretary's obligation to disburse funds under the loan agreement shall terminate; and 2) a feasibility study produced under a feasibility study loan made to the borrower pursuant to this regulation shall become property of the United States.

§ 797.90 Default.

(a) In the event that the borrower fails to perform the terms and conditions of the loan agreement or any related document, the borrower shall be in default and the Secretary shall have the right, at his option, to accelerate the indebtedness and demand full payment of all amounts outstanding, both principal and interest, under the loan.

(b) No failure on the part of the Secretary to make demand at any time shall constitute a waiver of the rights held by the Secretary.

(c) Upon demand by the Secretary, the borrower shall have a period of not more than 30 days from the date of the Secretary's demand to make payment in full because of default.

(d) In the event that the failure on the part of the borrower to perform the terms and conditions of the loan agreement, or related document, does not constitute an intentional act, but is brought about as a result of circumstances largely beyond the control of the borrower, the Secretary may elect, at his option, to waive the right to payment in full or restructure the repayment required by the loan agreement in any manner he determines.

(e) Should the borrower fail to pay after demand as provided in subparagraph (c), the Secretary shall undertake collection in accordance with the terms of the loan agreement and the applicable law.

(f) If during the term of a cancelled loan the borrower, or an entity in which the borrower has a substantial interest, starts construction of the small hydroelectric power project to which the loan pertained, unpaid principal and interest to date shall become due and payable.

§ 797.100 Disclosure.

(a) Subject to the requirements of law, and in accordance with DOE regulations concerning public disclosure, information such as trade secrets, commercial and financial information, and other information or data concerning the project which the applicant submits to DOE in writing during the preliminary discussions or at other times throughout the duration of the project, on a privileged or confidential basis, will not be disclosed by DOE without prior notification to the applicant. Any applicant asserting that the information is privileged or confidential shall appropriately identify and mark such information.

§ 797.200 Noninterference with Federal, State, and local requirements.

Nothing in this regulation shall be construed to modify requirements imposed on the borrower by Federal, State, and local government agencies in connection with permits, licenses, or other authorizations to construct or finance small hydroelectric power projects.

§ 797.300 Overall program considerations.

Nothing in these regulations shall be interpreted to restrict the Secretary, in making his various determinations, from taking into account considerations relating to the small hydroelectric power project loan program as a whole.

§ 797.400 Nondiscrimination in federally assisted programs.

(a) Applicants and recipients of Federal assistance from DOE are obligated to comply with civil rights requirements of the following public laws: Title VI of the Civil Rights Act of 1964; Title IX of the Higher Education Amendments of 1972; Section 16 of the Federal Energy Administration Act of 1974; Section 401; of the Energy Reorganization Act of 1974; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

(b) To be in compliance with civil rights requirements, an applicant/recipient, among other obligations, must:

(1) submit a written assurance that the program or activity will be operated in a manner which does not exclude from participation in or deny the benefits or services to individuals on the basis of race, color, national origin, sex, age, or handicap;

(2) designate a responsible employee to coordinate activities to carry out its civil rights compliance responsibilities; and

(3) take appropriate initial and continuing steps to notify participants, beneficiaries, applicants and employees that it does not discriminate on the basis of race, color, national origin, sex, age, or handicap.

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Thursday
May 24, 1979

Part V

Department of Defense

Corps of Engineers

Evaluation of National Economic Development Employment Benefits

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 344]

[ER 1105-2-354]

Evaluation of National Economic Development Employment Benefits; Proposed Policies and Procedures

AGENCY: Corps of Engineers, DOD.

ACTION: Proposed Rule.

SUMMARY: This regulation establishes evaluation procedures for projected employment as a result of the implementation of proposed water resources plans. This regulation is consistent with the planning requirements of the U.S. Water Resources Council (WRC) Principles and Standards (P&S) and related policies, and will be utilized by the U.S. Army Corps of Engineers in feasibility studies conducted as a part of the Civil Works program.

DATE: Submit comments on or before June 22, 1979.

ADDRESS: Send comments to: Department of the Army, Office of the Chief of Engineers, ATTN: DAEN-CWP-A, Washington, DC 20314.

FOR FURTHER INFORMATION CONTACT: Ed Cohn, Chief of Economic Social Section, Plan Formulation and Evaluation Branch, Planning Division, Directorate of Civil Works, (202-693-7320).

SUPPLEMENTARY INFORMATION: Employment benefits are not a planning objective, but these benefits can be used in the evaluation and selection of alternative projects formulated during the planning process. Any project located in an area officially identified by the WRC as containing unemployed, or underemployed, labor resources is eligible for employment benefits. The areas designated by the Economic Development Administration (EDA) will be used until the WRC makes its designations.

In his message to Congress of June 6, 1978 on water policy, the President directed the Water Resources Council to prepare a manual which will ensure that benefits and costs are calculated using the best techniques and will provide for consistent applicaiton of the Principles and Standards. This regulation will be revised, as required, to be consistent with the manual.

Note.—The Corps of Engineers has determined that this regulation does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 9, 1979.

For the Chief of Engineers.

Thorwald R. Peterson,

Colonel, Corps of Engineers, Executive Director, Executive Staff.

PART 344—EVALUATION OF NATIONAL ECONOMIC DEVELOPMENT EMPLOYMENT BENEFITS

Sec.
344.1 Purpose.
344.2 Applicability.
344.3 References.
344.4 Definitions.
344.5 Applicability of Planning Reports.
344.6 General Principles and Standards of Benefit Evaluation.
344.7 Evaluation Procedure and Benefit Measurement.

App. A—Occupational Tables

Authority: 38 FR 24778, September 10, 1973.

Source: ER 1105-2-354.

Evaluation of NED Employment Benefits

§ 344.1 Purpose.

This regulation prescribes principles, standards, procedures and measurement techniques for evaluating beneficial contributions to the National Economic Development (NED) objective for employment of unemployed or underemployed manpower in construction and installation of a proposed plan formulated under the Water Resources Council *Principles and Standards* (reference § 344.3(a)).

§ 344.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies with Civil Works responsibilities.

§ 344.3 References.

(a) Water Resources Council (WRC) Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869. September 10, 1973.

(b) Water Resources Council, *Procedure 1 for Planning Water and Related Land Resources.* July 24, 1974.

(c) ER 1105-2-200.

(d) Area Trends in Employment and Unemployment, Manpower Administration, U.S. Department of Labor, Monthly Publication Employment & Training Administration (TPPL), 601 D Street, NW., Washington, DC 20213.

(e) Qualified Areas Under the Public Works and Economic Development Act of 1965 as amended, Economic Development Administration, U.S. Department of Commerce, Periodic Publication, U.S. Government Printing Office.

(f) An Evaluation of the Public Works Impact Program (PWIP), Economic Development Administration, U.S. Department of Commerce, January 1975 (NTIS #PB-263 098).

§ 344.4 Definitions.

(a) "Employment Benefit" means the NED benefit resulting from the use of otherwise unemployed or underemployed labor in the construction or implementation of a plan.

(b) "Designated Area" means an area which is designated as a Title IV area in reference § 344.3(e).

§ 344.5 Applicability to planning reports.

This regulation is applicable to all planning reports subject to WRC Principles and Standards for Planning (P&S) including those covered by § 344.3(b).

§ 344.6 General principles and standards of benefit evaluation.

(a) *National Economic Development (NED) Account.* Unemployment benefits are a special category of benefits and are a component of the NED account. As explained in the P&S, this component is conceptually an adjustment to the cost of a project, because there is no economic cost associated with the use of an otherwise unemployed resource, or full utilization of an otherwise underemployed resource. Due to measurement problems, benefits are limited to payments to unemployed and underemployed labor resources directly employed in the construction and installation of a plan.

(b) *Regional Development (RD) Account.* Operation and maintenance labor earnings over the life of the project are RD benefits. Other plan induced employment such as related to new commercial and industrial activities will also be included in the RD account.

(c) *Use of Employment Benefits.* Employment benefits are not a planning objective under the meaning of § 290.4(i) of this chapter. Employment benefits will not be used in the design and scaling of projects after formulation. The NED plan will be designated as the plan which maximizes NED benefits when employment benefits are included. Employment benefits are existing benefits.

(d) *Designated Areas.* The WRC Principles and Standards for planning (reference § 344.3 (a)) states that the WRC will designate planning regions which contain unemployed or underemployed labor resources. Until WRC makes its designations,

designations under Title IV of the Economic Development Administration (EDA), U.S. Department of Commerce, will be utilized for plan benefits. The portion of the project located in a designated county is eligible for employment benefits.

§ 344.7 Evaluation procedure and benefit measurement

(a) *Labor Availability.* If the proposed plan is located in a designated area, analysis of employment is required.

(1) Estimate number of employed (skilled and unskilled) and unemployed (skilled and unskilled) construction workers in the labor area. Construction labor pool data is usually available from local offices of state employment security agencies. The categories should be developed from Table II-E-6-A and B of § 344.3(f).

(2) Estimate briefly and deduct the number of construction workers that may be required for other construction projects proposed for the area.

(b) *Labor Requirements of Plan Implementation.*

(1) *Labor Cost.* Manpower requirements of water resource projects differ widely. Construction cost estimate data will provide percent of labor cost to total construction contract cost. Corps of Engineers design and administration costs, land cost and other nonconstruction related costs are deducted from total plan cost to arrive at construction costs.

(2) *Manpower Requirements.* Plan construction work force is analyzed to determine manpower requirements for skilled and unskilled categories of workers. This data should be converted to total construction wages by skilled and unskilled categories. In addition, the wage bill associated with "white collar" workers needed on the project will be estimated. (§ 344.3(f) Tables II-E-6 & 7 for definitions).

(c) *Potential Employment.* The manpower requirements of the project will be compared to labor availability in eligible areas. Where the availability is significantly in excess of requirements, proceed to the next step. Where availability is not significantly in excess of requirements, a reduction in the percents in the next step will be made. The reduction will be based upon one or more of the following: expert interviews, a careful match-up of requirements and availability for specific job types (e.g., carpenters), consideration of male-female components of labor force, unemployment rate above 4 percent, and the like.

(d) *NED Employment Benefits: Standard Method.* The following percentages were derived from § 344.3(f). While § 344.3(f) is not completely comparable to typical Corps projects, it does provide the only known empirical basis for deriving unemployment benefits. Case 1 covers situations where there is no "local hire" rule. It is taken directly from § 344.3(f): the Public Works Impact Program has no local hire rule. Case 2 covers situations where there is a "local hire" rule; § 344.3(f) data were modified to account for an 80 percent local hire by scaling up the actual local hires (for skilled and unskilled workers) to 80 percent, but retaining the distribution of local hires previously employed to local hires previously unemployed in § 344.3(f).

(1) *Case 1, NED Benefits, Present Worth.* The total wages including contingencies, determined by categories of workers (skilled, unskilled and other) will be multiplied by the following percentages to obtain the present worth of NED benefits. In addition, any interest during construction associated with wages to unemployed will be added as a benefit to the present worth of NED benefits obtained by applying the percentages:

Skilled	30
Unskilled	47
Other	35

(2) *Case 2, NED Benefits, Present Worth.* The following percentages, plus appropriate interest during construction, will be applied in case 2 situations. However, it must be remembered that the 80 percent local hire rule is only a goal, not a stringent requirement. Therefore, in case 2 situations, the following percentages represent a maximum number. Use of the maximum number must be supported by appropriate correspondence of experts or other data which indicates that the local hire goal is likely to be met. Where this is unlikely, the case 2 percentages will be reduced to intermediate percentages between case 1 and case 2, by prorating, based on total local hires of 50 percent for case 1 and 80 percent for case 2.

Skilled	43
Unskilled	58
Other	35

(3) *Annual NED Benefits.* The present worth NED benefits is placed on an average annual basis using the appropriate rate of interest to bring benefits to project year one and to amortize such benefits.

(e) *NED Employment Benefits. Alternative Methods.* The unemployed and underemployed percentages may be changed from § 344.3(f) if the report supports such change by a study which empirically (not theoretically) shows the use of unemployed and underemployed workers on a simmilar project or a segment of the same project. In utilizing this method, it may be necessary to vary the categorization of construction workers used in the standard method. It is emphasized that while the opinions of experts such as local state employment security agencies, local construction firms, Associations of Contractors, and labor unions should be used as support. these opinions cannot substitute for empirical data. Studies used to document alternative percentages for specific types or locations of projects will be cited or included in the report.

(f) *Indirect Effects.* The percentages from § 344.3(f) measure wages paid directly to previously unemployed and underemployed workers. Previously employed workers may vacate jobs which are then made available to unemployed workers. There is no empirical data to support a quantification of such indirect effects. Therefore, indirect effects cannot be claimed.

(g) *Update of Employment Benefits.* Employment, unemployment and underemployment conditions change over time. Where critical to project justification employment benefits will be updated by a reanalysis at each major stage of preconstruction reporting such as General Design Memo Phase I, Authorization and Funding for Construction. Otherwise, general index updating is acceptable.

Appendix A—Occupational Tables

Blue Collar Unskilled Occupations

Bricklayer Apprentice
Carpenter Apprentice
  Apprentice Carpenter
  Carpenter Helper
Chainman
Deck Hand
Electrician Apprentice
  Apprentice Electrician
  Apprentice Wireman
  Electrician Trainer
Iron Worker Apprentice
Laborer
  Asphalt Distributor
  Assistant Carpenter
  Bottom Laborer
  Brick Tender
  Carpenter Aid
  Carpenter Helper
  Chainsawman
  Common Laborer
  Concrete Braker
  Concrete Laborer
  Concrete Saw
  Construction laborer
  Ditch Laborer
  Drill Helper
  Flag Person

Hod Carrier
Kettleman
Laborer
Laborer Apprentice 3rd
Laborer Group I
Laborer Group V
Labor Shop Man
Laborer Topman
Laborer Utilityman
Landscape Laborer
Mason Helper
Mason Laborer
Mason Tender
Mortarman
Mortarmixer
Pipe Layer
Pipe Helper
Pipe Fitter
Plasterer Tender
Powderman
Pusher
Rakerhan
Reboundman
Road Laborer
Roof Helper
Sand Blaster
Set-up-man
Sprinkler Apprentice
Stake Setter
Tender
Termite Operator
Title Setter Operator
Vibrator Operator
Water Truckman
Lumberman and Nurseryman
Tree Thinner
Treeman
Treeplanter
Operating Engineer Apprentice
B.M. Apprentice
EO Group III
EO Group 222
Plumber Apprentice
Plumber Apprentice
Plumber Helper
Painter's Helper
Sheet Metal Apprentice
Vibrator Operator
Watchman
Night Watchman

Blue Collar Skilled Occupations

Blaster
Boilermaker
Boilermaker Foreman
Bricklayer
Block Layer
Truckpointer
Brick Mechanic
Bricklayer Foreman
Carpenter
Form Setter
Journeyman Carpenter
Soft Floor Layer
Carpenter Foreman
Carpenter Superintendent
Cement Mason
Finisher
Journeyman Finisher
Cement Mason Foreman
Diver
Driller
Drill Rig Operator
Electrician
Journeyman Electrician
Mechanical Electrician
Wireman
Journeyman Wireman
Electricial Foreman
General Foreman
General Labor Foreman
Project Foreman
Glazier
Iron Worker
Reinforcing Ironworker
Structural Ironworker
Steel Worker
Steel Erector
Steel Setter
Reinforcing Steel Worker
Iron Worker Foreman
Labor Foreman
Construction Foreman
Foreman
Job Foreman
Lead Foreman
Lather
Lather Foreman
Master Mechanic
Mechanic
Mechanic Welder
Repairman
Repairman Leadman
Oiler
Oiler Equipment Operator
Oiler Operator Group III
Oiler Track Type
Operating Engineer
Asphalt Distributor Operator
Asphalt Heaterman
Backhog Operator
Blade Operator
Bobcat Operator
Bulldozer Operator
Case Operator
Class A Operator
Class C Operator
Crane Operator
Digger Operator
Distributor Operator
Dragline Operator
Equipment Operator
Equipment Operator Group III
Front End Lift Fork Operator
Heavy Equipment Operator
Hi-Lift Operator
Lift Fork Operator
Light Equipment Operator
Loader Operator
Maintenance Loadman
Motor Grader Operator
Operator Group III
Pan Operator
Park Equipment Operator
Power Drive Moister Operator
Power Equipment Operator
Pneumatic Tire Roller Operator
Pneumatic Tractor Operator
Roller Operator
Scraper Operator
Shovel Operator
Tractor Operator
Trayveyor Operator
Trenching Machine Operator
Truck Loader Operator
Operating Engineer Foreman
Leader Operator
Painter
Brush Painter
Roller Painter
Spray Painter
Painter Foreman
Pile Driver
Pipe Fitter
Sp. Box Man
Pipe Fitter Foreman
Sprinkler Foreman
Plasterer
Plasterer Foreman
Plumber
Pipe Layer
Plumber Foreman
Plumber General Foreman
Plumber Superintendent
Rigger Foreman
Roofer
Sheet Metal Worker
Journeyman Sheet Metal Worker
Sheet Metal Mechanic
Sheet Metal Operator
Sheet Metal Foreman
Steam Fitter
Tile Setter
Truck Driver
Axle Truck Driver
4 Axle Truck Driver
Dump Truck Driver
Road Truck Driver
Tandam Truck Driver
Truck Driver II
Truck Driver Highway
Waterproof Foreman
Welder

Construction Occupations, Except Blue Collar

Assistant Project Coordinator
Assistant Superintendent
Bookkeeper
Civil Engineer
Civil Engineer
Grand Setter
Party Chief
Project Engineer
Project Engineer and Coordinator
Rodman
Surveyor
Transit Man
Clerk
Clerk
Accountant Clerk
Clerk Typist
Typist
Construction Superintendent
Construction Superintendent
Job Superintendent
Project Supervisor
Superintendent
Draftsman
Draftsman
Draftsman Estimator
General Superintendent
Inspector
Project Coordinator
Project Coordinator
Project Foreman
Timekeeper

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Thursday
May 24, 1979

Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 296]

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) proposes regulations to implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978, 92 Stat. 629, Pub. L. 95-372, 43 U.S.C. Section 1841 *et seq.* (the Act). The Act establishes a Fishermen's Contingency Fund (the Fund) which pays for property or economic loss suffered by commercial fishermen as a result of obstructions related to oil and gas exploration, development, and production on the Outer Continental Shelf. Eligible losses are those resutling from damage to commercial fishing vessels or gear caused by obstructions which are not attributable to financially responsible parties.

DATE: Written comments on these proposed regulations will be accepted by the National Marine Fisheries Service until June 27, 1979. Comments received by the National Marine Fisheries Service will be available for review by interested parties.

ADDRESS: Comments should be sent to: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235.

Please mark "Title IV" on the envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Hensley, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: area code (202) 634-7496.

SUPPLEMENTARY INFORMATION: On January 25, 1979, the National Marine Fisheries Service (NMFS) published an "Advance Notice of Proposed Rulemaking and Notice of Public Workshops" (44 FR 5165) to announce its intention to solicit public comments on a number of issues before proposing regulations to implement Title IV of the Act. Public workshops were held in New Orleans, Louisiana on February 9, 1979; Boston, Massachusetts on February 13, 1979; Anchorage, Alaska on February 21, 1979, and Los Angeles, California on February 23, 1979, to solicit public comment on nine issues which concern the program. Summaries of Title IV of the Act and these nine issues are contained in the "Advance Notice of Proposed Rulemaking and Notice of Public Workshops". A discussion of the nine issues, the major comments received on each, and their resolution in the proposed rules follows:

Issues

Issue No. One

Establishing the nature of obstructions which cause damage to fishing vessels or gear (Section 404 of the Act). Obstructions causing damage can be of at least three kinds: (a) natural obstructions; (b) man-made obstructions other than those resulting from oil and gas activities; or (c) man-made obstructions resulting from oil and gas exploration, development, and production on the federal Outer Continental Shelf. Only damage resulting from the third kind of obstruction is eligible for recovery from the Fund. The issue presented is whether some physical evidence of the obstruction should be obtained by the claimant and, in the absence of such evidence, what alternate methods would be available for the claimant to establish the eligible nature of the obstruction.

Section 404 of the Act can be interpreted as allowing a presumption of claim validity for a fisherman without identifying the specific obstruction which caused the damage to his gear. Offshore petroleum industry representatives, however, interpreted section 404 of the Act as requiring each fisherman to specifically identify the obstruction which caused the damage and to prove that the obstruction resulted from Outer Continental Shelf oil and gas activities, as opposed to natural obstructions or those resulting from other ocean users.

Fishing industry representives believed that it would often be impossible or impracticable to relocate and identify relatively small bottom obstructions and that, even where this was feasible, the costs incurred in identifying these obstructions could be prohibitive.

The proposed rules construe Section 404 as not requiring each fisherman to identify the specific obstruction which caused his gear loss or damage, if the loss occurred in an area affected by Outer Continental Shelf oil and gas activity and the other requirements of Section 404 are fulfilled. This interpretation of Section 404 of the Act is reflected in the proposed regulations because it is consistent with Congressional intent to facilitate compensation for the fisherman if the requirements of the presumption of validity are met.

Issue No. Two

Fixing the position of obstructions. All commenters agreed that an accurate location of the obstruction which caused the damage is important to:

1. Determine whether a claim is eligible;
2. Chart it, or publish it in Notices to Mariners, to avoid future damage caused by the same obstruction; and
3. Possibly relocate the object causing the damage in order to identify or remove it.

Representatives of the offshore petroleum industry position said that locations should be determined by Loran C bearings, radar range and compass bearings, and by marking obstruction sites with U.S. Coast Guard-approved buoys. Fishermen, on the other hand, felt that no claim should be disqualified because of the method used to identify the location of the obstruction site. Additionally, they felt that the best position-fixing equipment available on each vessel should suffice as the method to identify the obstruction site. Finally, they felt that marking obstruction sites with U.S. Coast Guard-approved buoys is impractical in most areas.

These proposed rules specify the available methods of locating the position of the obstruction site, ranked from most preferable to least preferable. The best method available to each vessel should be used in determining the location, and no claim will be disqualified if the only method available to a claimant is one that is less preferable than other methods.

Issue No. Three

Valuation of lost or damaged property. Two methods of valuing lost or damaged property were advocated by the commenters when the damaged property is not repairable: replacement cost (the "ceiling" on recovery from the Fund allowed by the Act) and depreciated replacement cost. Replacement cost was advocated by representatives of the fishing industry Fishermen commented that drag nets (the principal type of gear expected to be involved in program casualties) do not depreciate in a normal manner because portions of the net are continually being repaired or replaced until the whole net is either no longer usable or is lost or destroyed. Representatives of the offshore

petroleum industry commented that normal practice is to reduce the acquisition cost of damaged property to reflect its age and condition at the time of damage.

The proposed rules use replacement cost, less salvage value, as a measure of damages, because this measure more accurately reflects the amount required to make a fisherman "whole" and allow the fisherman to continue to earn a livelihood.

Issue No. Four

Valuation of other economic loss. Several different methods of valuing lost fishing time were recommended by the commenters. Among these suggested were:

1. Prior year's income tax return;
2. Standard industry cost/earnings data;
3. Individual performance adjusted on a seasonal basis; and
4. An average of the preceding year's quarterly performance comparable to the current year quarter in which the casualty occurred.

Additionally, an issue arose concerning the inclusion of claimants' costs of pursuing claims in the measure of recovery.

The proposed rules allow the hearing examiner to consider the claimant's earnings from the preceding year's comparable quarter. This information could be established from the claimant's cost/income records for the previous 12 months, and may be modified by other relevant information (for example, income from trips immediately before and after the casualty). Additionally, all reasonable expenses of pursuing the claim will be included in the claimant's recovery.

Issue No. Five

Claimant's negligence. The Act requires that the claimant's recovery be reduced to the extent that damages were caused by the claimant's negligence. Several factors were submitted by commenters to be considered in determining whether a claimant was negligent. Among those submitted were:

1. Failure to abide by established rules of the road;
2. Failure to avoid charted obstructions or those noted in Notices to Mariners;
3. Failure to use proper care;
4. Failure to accurately fix position of obstructions; and
5. Failure to mitigate damages.

The proposed rules consider the following factors to constitute negligence on the part of a claimant:

1. Failure to remain outside of any navigation safety zone around oil and gas rigs and platforms;
2. Failure to avoid charted obstructions or those noted in Notices to Mariners; or
3. Failure to mitigate damages.

Issue No. Six

Settlement of claims prior to hearing. Some commenters suggested that quasi-judicial hearings with a hearing examiner are expensive and time-consuming. In order to avoid these problems, a pre-hearing decision process was recommended. Other commenters were concerned, however, that a negative pre-hearing decision would prejudice a subsequent disposition of the case by the hearing examiner. Additional comments suggested that prehearing settlements should be allowed only for claims involving less than $2,500.

The proposed rules contain a pre-hearing settlement procedure. Under this proposed procedure NMFS would make an agency review of all claims. If the claimant agrees with the agency conclusions, a recommended settlement would be forwarded to the hearing examiner. If the claimant disagrees with the agency conclusions, the conclusions would be forwarded to the hearing examiner as an agency recommendation which the hearing examiner may consider during a hearing. Under this procedure, a formal hearing can be triggered by:

(1) A claimant, who disagrees with the agency recommendation; or

(2) A hearing examiner, if the hearing examiner (i) does not agree with the recommended settlement or (ii) grants a request for a hearing submitted by an interested person in the offshore petroleum industry.

Issue No. Seven

Payment of hearing cost. The Act provides that, if a fisherman files a claim for damages, and is subsequently found to be responsible for the damages, the fisherman shall pay the costs of the proceedings with respect to the claim. Similarly, any oil or gas company who denies responsibility for damages with respect to which a claim is made and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings with respect to the claim. The proposed rules allow the hearing examiner or a court of law the discretion to determine when the claimant or an oil or gas related company is responsible for the damage and thus liable for the costs of the proceedings.

Issue No. Eight

Hearing examiner discretion. The issue presented is the amount of discretion the hearing examiner should have in adjudicating claims under section 405 of the Act. Some commenters favored very specific program rules in areas such as standard of proof, basis of compensation, and claimant negligence. This would tend to limit the hearing examiner's discretion because the examiner would have to evaluate the claim in accordance with specific criteria in the rules. Commenters favoring this approach felt it would have the advantages of treating everyone alike and putting claimants on notice, in advance, of the requirement for a successful claim recovery. Other commenters favored general program rules that would give each hearing examiner as much discretion as possible in adjudicating claims. Commenters favoring this approach felt it would have the advantage of giving each hearing examiner a great deal of flexibility in dealing with the facts of each case.

The proposed rules seek to balance these two interests by providing sufficient specificity so that interested persons would have advance notice of the requirements for a successful claim recovery, while still allowing the hearing examiner to exercise discretion in certain instances where the hearing examiner finds that the merits of an individual case justify the application of a different standard.

Issue No. Nine

Scope and amount of area accounts. The act provides for dividing the Fund into separate area accounts, each funded by oil and gas related companies within the geographic limits of the area account and liable for the casualties occurring within, or associated with, the same geographic area. The theory is that oil and gas operators in one area should not be penalized for the obstruction-related damage caused by oil and gas operators in other areas.

Some commenters preferred only three area accounts, one each for the Gulf of Mexico, Atlantic Ocean and the Pacific Ocean. Others recommended five area accounts for the Gulf of Mexico and from two to three area accounts each for the Atlantic and Pacific Oceans.

The proposed rules contain five area accounts for the Gulf of Mexico and one area account each for the North atlantic Ocean, the rest of the Atlantic, the waters off Alaska, and the rest of the Pacific Ocean. Five area accounts were selected for the Gulf of Mexico because

of the frequency of conflict activity in that area. If conflict activity increases in either the Atlantic or the Pacific Oceans, additional area accounts can be established as needed for each Ocean, although it would be necessary to reduce the maximum capitalization of at least some area accounts if more than a total of ten (10) area accounts are established.

The proposed rules provide that each area account will be capitalized initially at the maximum level of $100,000.

The Assistant Administrator for Fisheries, NOAA has made an initial determination that these proposed regulations are not significant under Executive Order 12044.

Dated: May 21, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

It is proposed that 50 CFR be amended as follows:

Add a new Part 296, Fishermen's Contingency Fund, as follows:

PART 296—FISHERMEN'S CONTINGENCY FUND

Sec.
296.1 Purpose.
296.2 Definitions.
296.3 Area Accounts.
296.4 Payments into the Fund.
296.5 Claims Eligible for Compensation.
296.6 Amount of Awards.
296.7 Instructions for Filing Claims.
296.8 NMFS Processing of Claims.
296.9 Proof.
296.10 Hearings.
296.11 Payment of Costs.
296.12 Appeals.
296.13 Payment of Award for Claim.
296.14 Subrogation.

Authority: 92 Stat. 629 (43 U.S.C. section 1841 *et seq.)*

§ 296.1 Purpose

These regulations implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978, 92 Stat. 629, Pub. L. 95-372, 43 U.S.C. section 1841 *et seq.* Title IV establishes a Fishermen's Contingency Fund to pay for damage to or loss of commercial fishing vessels and gear and any resulting economic loss suffered by commercial fishermen as a result of obstructions related to oil and gas exploration, development, and production activities on the Outer Continental Shelf. Eligible losses are those resulting from damage to commercial fishing vessels or gear caused by obstructions which are not attributable to a financially responsible party.

§ 296.2 Definitions.

Unless the context requires otherwise, the terms used in this part have the following meanings:

"Area account" means an account, within the Fishermen's Contingency Fund, for a specific area of the Outer Continental Shelf, as described in § 296.3 of this Part.

"Area affected by Outer Continental Shelf exploration, development, or production activities" means any area of the Outer Continental Shelf where oil and gas exploration, development, or production activities have taken place or are taking place. The term also includes any area landward of the Outer Continental Shelf where such activities have taken place or are taking place.

"Chief, Financial Services Division, NMFS" or "Chief, FSD" means the Chief of the Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.

"Citizen of the United States" means (1) any person who is a United States citizen by law, birth, or naturalization; (2) any State, any agency of a State, or a group of States; or (3) any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least seventy-five percent (75%) of the interest of therein owned by citizens of the United States. Seventy-five percent of the interest in the corporation shall not be deemed to be owned by citizens of the United States if:

(a) The title of 75% of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(b) 75% of the voting power in such corporation is not vested in citizens of the United States;

(c) Through any contract or understanding it is so arranged that more than 25% of the voting power may be exercised, directly or indirectly, on behalf of any person who is not a citizen of the United States; or

(d) By any other means whatsoever control of any interest in the corporation in excess of 25% is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"Claimant" means a commercial fisherman who files a claim under this Part, or any person acting on behalf of the commercial fisherman.

"Commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel.

"Commercial fishing vessel" means any vessel, boat, ship, or other craft which is (1) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (2) used for, equipped to be used for, or of a type which is normally used for the catching, taking, or harvesting of fish or aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

"Easement" means a right of use or easement granted under 30 CFR 250.18(c).

"Exploration permit" means the "permit" defined in 30 CFR 251.3(i).

"Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

"Fishing gear" means (1) any commercial fishing vessel, and (2) any equipment of such vessel, whether or not attached to such a vessel.

"Holder" means the record owner of each lease, exploration permit, easement, or right-of-way.

"Fund" means the Fisherman's Contingency Fund established under 43 U.S.C. 1842.

"Lease" means any form of authorization issued under section 8 or maintained under section 6 of the Outer Continental Shelf Lands Act.

"Natural obstruction" means any object or thing not made or caused by man which hinders or prevents the operation of fishing gear.

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

"NOS" means the National Ocean Survey, National Oceanic and Atmospheric Administration, Department of Commerce.

"Outer Continental Shelf" or "OCS" means the seabed and subsoil which (1) lie seaward of the seaward boundary of each coastal state, and (2) appertain to the United States and are subject to its jurisdiction and control.

"Outer Continental Shelf Lands Act" means 43 U.S.C. section 1331 *et seq.*, as amended.

"Respondent" means any person who (1) has engaged in activities associated with OCS energy activity in the vicinity

where the claimant's fishing gear was damaged or lost and (2) has been admitted by the hearing examiner under § 296.10(c)(3) of this Part as a party in a hearing.

"Right of way" means a right-of-way granted under section 5(e) of the Outer Continental Shelf Lands Act or under 43 CFR subpart 2883, including an "advance permission to commence construction" of a pipeline granted under 43 CFR section 2883.2–3.

"Secretary of the Interior" means (1) the Secretary of the Department of the Interior or (2) an individual to whom appropriate authority has been delegated.

"USGS" means the United States Geological Survey, Department of the Interior.

§ 296.3 Area accounts.

(a) *Description.* The following area accounts are established within the Fund:

(1) *North Atlantic Area Account.* This account is for the area of the OCS in the Atlantic Ocean which is bounded by the U.S.–Canadian boundary on the north, 39° N. latitude on the south, and 71° W. longitude on the west.

(2) *Mid-South Atlantic Area Account.* This account is for those areas of the OCS in the Atlantic Ocean which are:

(i) Both north of 39° N. latitude and west of 71° longitude;

(ii) South of 39° N. latitude and east of 80°15′ W. longitude (off the southern coast of Florida); or

(iii) Adjacent to any U.S. territory, commonwealth, or possession in the Atlantic Ocean or the Caribbean Sea to which the Outer Continental Shelf Lands Act applies.

(3) *Pacific Area Account.* This account is for the area of the OCS adjacent to Washington, Oregon, California, Hawaii, or any U.S. territory, commonwealth, or possession in the Pacific Ocean to which the Outer Continental Shelf Lands Act applies.

(4) *Alaska Area Account.* This account is for the area of the OCS adjacent to Alaska.

(5) *Freeport Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section A of Appendix I of this Part. This area is identical to USGS Freeport District.

(6) *Lake Charles Area Account.* This account is for the area of the OCS in the Guld of Mexico as described in section B of Appendix I of this Part. This area is identical to USGS Lake Charles District.

(7) *Lafayette Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section C of Appendix I of this Part. This area is identical to USGS Lafayette District.

(8) *Houma Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section D of Appendix I of this Part. This area is identical to USGS Houma District.

(9) *Metairie Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section E of Appendix I of this Part. This area is identical to USGS Metairie District.

(b) *Exclusion.* The geographic area for each area account described in paragraph (a) of this section does not include any portion of the OCS which is recognized by the United States as being under the jurisdiction of any State under the Submerged Lands Act (43 U.S.C. section 1301 *et seq.*).

(c) *Amounts.* Amounts in area accounts may not exceed the following (although they may from time-to-time be replenished under section 296.4(b) of this Part):

Area Account and Amount	
North Atlantic	$100,000
Mid-South Atlantic	$100,000
Pacific	$100,000
Alaska	$100,000
Freeport, Gulf of Mexico	$100,000
Lake Charles, Gulf of Mexico	$100,000
Lafayette, Gulf of Mexico	$100,000
Houma, Gulf of Mexico	$100,000
Metairie, Gulf of Mexico	$100,000

§ 296.4 Payments into the fund.

(a) *Initial assessments.* Each lease issued or maintained under the Outer Continental Shelf Lands act for any tract in any geographical area for which there is an area account, each easement or right-of-way for the construction of a pipeline in such area, and each exploration permit in such area, which was in effect at any time on or after (date of publication), is assessed in accordance with paragraph (c) of this section so that $100,000 will be collected in each area account.

(b) *Assessments to maintain accounts.* (1) *When depleted.* If the total amount in any area account is less than one-half of the amount specified for that area account in § 296.3(c), the Chief, FSD, NMFS, may determine that the account is depleted. After making the determination, the Chief, FSD, NMFS, will publish in the Federal Register a notice of assessments to maintain the area account.

(2) *Amounts.* Each lease, permit, easement, and right-of-way which is both (i) in the geographical area for which there is a depleted area account (as determined under paragraph (b)(1) of this section) and (ii) in effect on the date an assessment is effective, shall be assessed such amount as is necessary to increase the total amount in the area account to the amount specified in section 296.3(c).

(c) *Calculation of amount.* (1) *Criteria.* The amount to be paid under paragraphs (a) and (b) of this section by each holder of a lease, exploration permit, easement and right-of-way in any geographical area for which there is an area account shall be determined as follows:

(i) Each exploration permit in effect at that time is assessed $25.00;

(ii) Leases, pipeline easements, and pipeline right-of-way are assessed equally on a per-unit basis based on the number of leases and pipeline segments in effect at that time.

(iii) New permits, leases, rights-of-way, or easements that originate after an assessment is made escape assessment until the next assessment at which time all permits, leases, rights-of-way, and easements in effect are assessed.

(iv) Pipeline rights-of-way and easements in the Gulf of Mexico are credited to the area account in which the pipeline segment originates;

(v) Pipeline easements to be assessed do not include flow or gathering lines within the confines of a single lease or group of contiguous leases under the unitized operation of a single operation.

(2) *By whom calculated.* The Secretary of the Interior will calculate the amounts to be paid by each holder.

(2) *Billing.* (1) The Chief, FSD, NMFS, will inform the Secretary of the Interior each time there is to be an assessment under this section.

(2) The Secretary of the Interior will notify each appropriate holder of the assessments and in what amount and where payable.

(e) *By whom and when payable.* Each assessment under this section shall be paid by the holder no later than 30 days after the Secretary of the Interior sends notice of the assessment under paragraph (d)(2) of this section.

(f) *Maximum payment.* No lease, exploration permit, easement, or right-of-way shall be assessed more than a total of $5,000 in any calendar year under this section.

§ 296.5 Claims eligible for compensation.

(a) *Claimants.* To be eligible for compensation under this Part, the damage or loss must be incurred by a commercial fisherman.

(b) *Damage or loss of fishing gear.* Except as provided in paragraph (c) of this section, any property or consequential damage (including loss of profits) due to damage to or loss of fishing gear caused by materials,

equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in a geographical area for which an area account has been established under section 296.3 is eligible for compensation under this Part. Damage or loss may be eligible for compensation even if it did not occur in the waters above the OCS, if the item causing the damage was associated with OCS oil and gas activities.

(c) *Exceptions.* Damages and lossses are not eligible for compensation under this Part if:

(1) They were caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

(2) They were caused by a natural obstruction or an obstruction unrelated to OCS oil and gas activities;

(3) They were suffered before September 18, 1978; or

(4) The claim is not timely filed in accordance with § 296.7(d) and 296.8(b) and (c) of this Part.

§ 296.6 Amount of awards.

(a) *General.* Except as provided in § 296.10(j) of this Part, the amount of the award under this Part is the total of the amounts under paragraphs (b), (c) and (d) of this section, minus any reductions under paragraphs (e) and (f) of this section.

(b) *Fishing gear.* If the fishing gear with respect to which the claim is filed can be repaired to a condition substantially similar to its condition immediately before the damage was suffered, at a cost less than its replacement cost minus its salvage value, then the amount of compensation is its repair cost. In all other cases (including loss of the fishing gear), the amount of compensation is the replacement cost minus the salvage value of the fishing gear.

(c) *Consequential damage.* (1) *Expenses.* The amount of an award under this Part will include compensation for any reasonable expenses incurred by the claimant to ascertain the cause and extent of the damage or loss incurred to fishing gear, and to pursue the claim. The hearing examiner will determine what expenses are reasonable and their amounts.

(2) *Loss of profits.* (i) The amount of an award under this Part will include compensation for any loss of profits due to damage to, or loss of, fishing gear with respect to which the claim is filed.

(ii) A claim for loss of profits due to loss of time spent in disengaging fishing gear from any item described in § 296.5(b) of this Part is eligible for compensation under this Part even if the fishing gear involved was not damaged or lost.

(iii) No award may be made under this Part for loss of profits (A) for any period in excess of 6 months from the date when the damage or loss of the fishing gear was discovered, and (B) unless such claim is supported by records with respect to the claimant's profits during the 12-month period immediately preceding the date of the discovery of the damage to or loss of the fishing gear (if the claimant was not a commercial fisherman for all of the 12-month period or if the fishery involved is a new one, estimates of profit may be based on NMFS statistics or other reliable evidence);

(iv) In determining the amount awarded under this section, § 296.6(c)(2), the hearing examiner may consider any evidence concerning:

(A) Profits from the corresponding quarter of the previous year,

(B) Profits from trips immediately before and after the loss or damage which is the subject of the claim,

(C) Such other evidence as the claimant may submit, and

(D) Such other factors as the hearing examiner may deem appropriate.

(v) The measure of compensation for loss of profits ordinarily is the net profits lost. If the hearing examiner determines that a different measure of compensation for loss of profits is appropriate because the facts of the claim are sufficiently extraordinary, and states the reasons for the determination, the hearing examiner may apply the measure of compensation which the hearing examiner deems to be most appropriate.

(3) *Other.* An award under this Part will include compensation for any other consequential damage resulting from the damage or loss of fishing gear (for example, compensation for personal injury resulting from damaged fishing gear).

(d) *Attorneys' fees.* An award under this Part will include compensation for any reasonable attorneys' fees incurred by the claimant in pursuing the claim.

(e) *Negligence of claimant.* (1) The amount of an award under this Part is reduced to the extent that the hearing examiner finds that the loss or damage (including consequential damages) was caused by the negligence or fault of the claimant. (For example, a claimant who sustained $10,000 in damages and whose negligence or fault was found to be responsible for 40% of the damage would receive $6,000 in compensation. If the same claimant were responsible for 99% of the negligence or fault that caused the damage, the claimant would receive $100 in compensation.)

(2) Negligence or fault of the claimant includes, but is not limited to, failure to:

(i) Remain outside of any navigation safety zone established around oil and gas rigs and platforms by any responsible Federal agency;

(ii) Avoid obstructions recorded on nautical charts or in the Notice to Mariners, or marked by a bouy or other surface marker; or

(iii) Attempt to mitigate, or to use due care in mitigating, the damage to, or loss of, the fishing gear and any resulting economic loss.

(f) *Insurance proceeds.* (1) The amount of any award under this Part will be reduced by the amount of any compensation the claimant received, or will receive, from insurance for the damage or loss with respect to which the claim against the Fund is filed.

(2) If the claimant has insurance which covers the damage, or any portion of it, the claimant must seek compensation from the insurance before an award will be made from the Fund.

§ 296.7 Instructions for filing of claims.

(a) *Five-day report required to gain presumption of validity.* (1) *General.* Under § 296.9(b) of this Part, claims are presumed to be valid if certain requirements are satisfied. One requirement is that a report on the location of the obstruction which caused the damage or loss, and the nature of the damage or loss, must be made within five days after the date when the damage or loss is discovered.

(2) *When and how to file five-day report.* (i) A five-day report under this § 296.7(a)(1) must be made within 5 days after the date the claimant discovered the loss or damage. Satisfaction of the five-day requirements is determined by postmark, if the report is mailed; by the date of receipt of a radiotelephone message, if the report is radiotelephoned; or, by the date of appearance, if the report is made in person at the nearest NMFS Regional Office.

(ii) Any report made by radiotelephone or otherwise orally communicated under § 296.7(a) (2)(i) must be confirmed in writing to the Chief, Financial Services Division, NMFS, Washington, D.C. 20235, not later than 5 days after the commercial fishing vessel involved next enters a port of the United States.

(3) *Where to radiotelephone file five-day report.*

NMFS Representatives and Phone

Chief, Financial Services Branch, Northeast Region, Gloucester, MA, (617) 281-3600
Chief, Fisheries Development Analysis Branch, Southeast Region, St. Petersburg, FL, (813) 893-3271
Chief, Fisheries Development Division, Southwest Region, Terminal Island, CA, (213) 548-2575
Chief, Financial Services Branch, Northwest Region, Seattle, WA 98109, (206) 442-5532
Chief, Fisheries Development, Alaska Region, Juneau, AK, (007) 586-7224

(4) *Contents of five-day report.* In order to be eligible for the presumption of validity, each five-day report must include the following:

(i) The name and address of claimant;

(ii) The name and identifying number of the commercial fishing vessel involved;

(iii) The location (loran C position readings, if available) of the obstruction which caused the damage or loss;

(iv) A description of the nature of the damage or loss;

(v) The date such damage or loss was discovered;

(vi) A description of the obstruction, if known; and

(vii) Whether or not a surface marker or lighted buoy was attached to or near the obstruction.

(b) *Aggregating claims.* If more than one commercial fisherman suffers loss or damage arising from the same incident (for example, when several members of the crew lost income due to loss of fishing time), the claims of all such fishermen shall be aggregated into one claim and the claim shall be submitted on their behalf by the owner or operator of the commercial fishing vessel involved.

(c) *Form of claim.* Claims must be in writing and include the information specified in paragraphs (e)(1) through (28) of this section. When available, claim forms may be obtained from any Regional Office, NMFS, or from the Chief, FSD.

(d) *Who must file, and when and where to file, claims.* Every claimant must file a claim (even those who filed five-day reports to gain the presumption of validity). Each claim must be filed with the Chief, Financial Services Division, NMFS, Department of Commerce, Washington, D.C. 20235, no later than 60 days after the date the claimant discovers the damage or loss with respect to which the claim is made. For the purpose of this section, the term "filed" means delivered in person, or mailed (as determined by the date of the postmark), to the Chief, Financial Services Division, NMFS, Washington, D.C. 20235. The claim may be mailed by registered or certified mail, return receipt requested.

(e) *Contents.* Each claim shall be signed by the claimant and shall accurately and completely provide the following information:

General Identification

(1) The name, mailing address, telephone number, citizenship, and occupational status (for example, vessel owner, operator, or crew member on a vessel) of each claimant;

(2) The name, address, and telephone number of each person (for example, an attorney) retained to act on behalf of any claimant in pursuing the claim;

(3) The name of the commercial fishing vessel involved in the damage or loss for which the claim is submitted;

(4) The vessel's U.S. Coast Guard documentation number (or State registration number, if the vessel is not documented under Federal law);

(5) The home port of the vessel;

(6) The date when the claim is written;

Type and Extent of Damage or Loss

(7) The type of commercial fishing vessel (for example: trawler; longliner), and type and quantity of fishing gear involved in the damage or loss;

(8) The nature and extent of the damage or loss suffered or expected;

(9) Photographs (when available) of any physical damage to fishing gear (including a commercial fishing vessel) which was not lost at sea;

(10) The amount, if any, claimed for physical damage to, or loss of, fishing gear. If an amount is claimed, the claim shall include:

(i) Proof that the claimant owns the fishing gear damaged or lost;

(ii) A list of all components of fishing gear damaged or lost, together with the size, type, grade, material of construction, age, and the estimated remaining useful economic life of each component;

(iii) The date, place, and cost of acquisition of all fishing gear damaged or lost;

(iv) Estimates, from two different commercial fishing gear repair or supply companies, of the present replacement cost of the fishing gear and the repair cost of the fishing gear (if it is repairable). If fishing gear of the type lost or damaged is usually made or repaired by the claimant, a detailed estimate prepared by the claimant identifying the repair or replacement cost of the fishing gear may be included in place of one of the estimates from commercial fishing gear repair or supply companies;

(v) If the fishing gear is repaired or replaced before an award is made under this Part, the invoice or receipt for the repair or replacement of the fishing gear; and

(vi) The estimated salvage value of the fishing gear, if it is not repairable;

(11) The amount, if any, claimed for loss of profits. If an amount is claimed, the claim shall include copies of all records, including catch logs, landing receipts, and Federal and state income tax returns, documenting the claimant's profits during the 12-month period immediately preceding the date when the damage or loss of the fishing gear was discovered. The claimant shall describe fully the basis upon which the amount claimed is calculated. The claimant should include whatever additional data might support, or be pertinent to, the amount claimed. Each claim shall contain a full statement of why the length of time claimed for loss of profits is justified and what actions, if any, the claimant took to mitigate the amount of lost fishing time;

(12) The amount, if any, claimed for consequential damages under § 296.6(c) (1 and 3) of this Part, together with a full description of what each amount claimed represents;

(13) A statement whether a claim has been, or will be, made against any insurance policy which may cover the damage or loss with respect to which the claim against the Fund is filed;

(14) The name and mailing address of each person, if any, to whom the claimant has given written notice that such person caused, or may have caused, the damage or loss;

Circumstances of the Damage or Loss

(15) The date and time of day, if known, when the damage or loss was suffered;

(16) The date when the damage was first discovered by the claimant;

(17) The depth of the water, if known, at the time and site where the damage or loss occurred;

(18) The visibility, if known, at the time and site the damage or loss occurred;

(19) The depth at which the fishing gear was being operated when the damage or loss occurred;

(20) The direction, speed, and activities of the claimant's fishing vessel immediately before, during, and after the damage or loss occurred (including a full description of both the deployment of any fishing gear which is the subject of the claim and all attempts at the retrieval of the gear);

(21) The amount and type of vessel traffic in the general vicinity at the time the damage or loss occurred;

(22) A full description (including any identification markings) of the item or obstruction which caused the damage or loss, if known. If the item or obstruction was physically recovered, it should be retained. If photographs of the item or obstruction are available, they should be submitted with the claim;

(23) A description of any lighted buoy or surface marker attached to or achored by the item or obstruction;

(24) A full statement of the claimant's reason for believing that the item or obstruction which caused the damage or loss is associated with oil and gas exploration, development, or production on the Federal OCS rather than with oil and gas activities within State waters, other ocean users, or natural causes;

(25) The names and addresses of all known witnesses to the occurrence which caused the damage or loss (statements from the witnesses may be submitted at the claimant's option);

(26) If applicable, a statement concerning when and how the claimant notified NMFS within 5 days of the damage or loss as provided in § 296.7(a) of this Part;

(27) The position of the commercial fishing vessel or fishing gear when the damage or loss occurred, and the position, of the obstruction causing the damage or loss (if, the obstruction were dragged, give positions for both before and after it was dragged), to be specified by using one or more of the following methods of position fixing. Claimants should use the most reliable method available aboard the vessel at the time of discovery of the damage or loss, such as: [1]

(i) Loran C values. If possible, provide position values obtained from using three or more different Loran C rates.

(ii) Distance (range) and direction (bearing) to fixed offshore objects such as lighthouses, light towers, and oil drilling or production platforms. Specify the name of each such object used (for example, Ambrose Light Tower, Shell Oil Platform No. 4281, etc.).

(iii) Distance (range) and direction (bearing) to fixed aids to navigation, and landmarks which are identified on National Ocean Survey charts, such as radio towers, jetty lights, etc.

(iv) Distance (range) and direction (bearing) to prominent landmarks which are not identified on National Ocean Survey charts, but readily identifiable for future reference.

(v) Loran A values. If possible, provide position values obtained from using three or more different Loran A rates.

(vi) Direction (bearing) to radio beacons using a radio direction finder. Give the station's identifying call letters.

(vii) Distance (range) and direction (bearing) to floating navigational aids, such as buoys. Identify any buoy by name, number, color and type; and

(28) Any other information which the claimant believes is relevant to the claim.

(f) *Other Evidence.* The hearing examiner may require the submission of additional information, affidavits, estimates, or other evidence.

(g) *Amendment of claims.* A claimant may amend the claim at any time before the claim is referred to the hearing examiner under this Part.

(h) *Criminal penalty for fraudulent claim.* Any person who files a fraudulent claim is subject to criminal prosecution under 18 U.S.C. sections 287 and 1001, each of which, upon conviction, impose a penalty of not more than a $10,000 fine and 5 years' imprisonment, or both.

§ 296.8 NMFS processing of claims.

(a) *Review of claims.* The Chief, FSD, will promptly review each claim filed under § 296.7 and determine whether it is properly completed under § 296.7(e) and timely filed within the 60-day period specified in § 296.7(d).

(b) *Untimely claims.* If the Chief, FSD determines that the claim was not timely filed, the Chief, FSD will notify the claimant in writing, that the claim is not eligible for compensation under this Part. The 60-day filing requirement of § 296.7(d) is satisfied by the filing of an improperly completed or incomplete claim.

(c) *Improperly completed or incomplete claims.* If the Chief, FSD, determines that the claim is not properly completed, the Chief, FSD, will send to the claimant a written notice stating the deficiency in the claim. If the claimant fails to correct the deficiency within 60 days after the date the notice of the deficiency is sent to the claimant, the claim is not eligible for compensation under this Part unless the Chief, FSD, for good reason extends the period for correcting deficiencies.

(d) *Public Notice of Claims.* (1) *Action by the Chief, Financial Services Division, NMFS.* After determining that the claim is properly completed and timely filed, the Chief, FSD, will promptly:

(i) Cause a hearing examiner to be assigned;

(ii) Transmit an abstract of the claim to the Secretary of the Interior; and

(iii) Publish notice of the claim in the Federal Register. Each Federal Register notice published under this paragraph (d)(1) will contain:

(A) a statement that the Chief, FSD, may seek a recommended settlement agreement under paragraph (e) of this section,

(b) a statement that interested persons may within thirty (30) days following publication of the notice in the Federal Register, submit to the Chief, FSD, any evidence concerning either the claim or a recommended settlement agreement, and

(C) the name and address of the hearing examiner.

(2) *Action by the Secretary of the Interior.* After receiving an abstract of the claim under paragraph (d)(1) of this section, the Secretary of the Interior will promptly send written notice of the claim to all persons known to have engaged in activities associated with OCS oil and gas exploration, development, or production in the vicinity where the damage or loss with respect to which the claim is filed occurred.

(3) *Responses to notice of claim.* (i) Any person who has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost may submit evidence at any hearing concerning a claim under this Part or concerning any settlement discussion under paragraph (e) of this section. Any such person who intends to submit evidence at a hearing or concerning any settlement discussion under paragraph (e) of this section must notify the Chief, FSD, and the hearing examiner in writing, not later than 30 days after publication of notice of the claim in the

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[1] The methods are listed in descending order of reliability.

Loran readings must include a statement as to whether or not the readings given are corrected or uncorrected. If corrected, include the uncorrected readings and all calculations used for arriving at the *corrected values.*

The use of dead reckoning, or running fixes, or both, to determine the vessel's position at the time of the damage or loss is acceptable only if no more reliable method were available.

Directions to shore and/or offshore objects should be visually observed and provided in degrees. The accuracy of the bearing shall be consistent with the equipment or instrumentation available aboard the vessel. Radar bearings are not considered to be acceptable. If the initial reading is done with a magnetic compass, then the reading must be converted to true using the CDMVT (compass, deviation, magnetic, variation, true) formula. The calculations, including all figures used, must accompany the claim. Bearings must be visual bearings and not radar bearings.

Brand name and model of all electronic and navigational equipment used in determining geographical position of the occurrence should be included.

Federal Register under paragraph (d)(1) of this section, that such person intends to submit evidence.

(ii) Each person notified by the Secretary of the Interior under paragraph (d)(2) of this section shall, within thirty (30) days after the Secretary of the Interior sends the notice, notify the Chief, FSD, and the Secretary of the Interior as to whether that person admits or denies responsibility for the damages claimed.

(iii) Each person who is notified by the Secretary of the Interior under paragraph (d)(2) of this section and fails to give timely and proper notice of admission or denial of responsibility under paragraph (d)(3)(ii) of this section, shall be conclusively presumed for the purposes of § 296.11 of this Part to deny responsibility for the damages claimed.

(iv) If any person admits responsibility under paragraph (d)(3)(ii) of this section, the Chief, FSD, will so inform the claimant, and will not take any further action on the claim unless the claimant and the person admitting responsibility are unable to settle the matter.

(v) Any person who has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost may file with the hearing examiner a request to be admitted as a party to any hearing concerning the claim. Such request must be filed with the hearing examiner in writing, not later than thirty (30) days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section. Such request will be ruled on by the hearing examiner under § 296.10(c)(3)(vii) of this Part.

(e) *Recommended settlement.* After determining that the claim is properly completed and timely filed, the Chief, FSD, may contact the claimant by telephone, telegram, or registered or certified mail, and initiate discussions concerning whether or not settlement of the claim can be recommended to the hearing examiner without conducting an evidentiary hearing under 5 U.S.C. section 554. If the Chief, FSD, and the claimant agree to a recommended settlement, the Chief, FSD, will file the recommended settlement with the hearing examiner for consideration in accordance with § 296.10(j) of this Part. The Chief, FSD, will not file any recommended settlement with the hearing examiner sooner than thity (30) days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section.

(f) *Agency recommendation.* If a recommended settlement cannot be agreed upon, the Chief, FSD, may file an agency recommendation for consideration by the hearing examiner.

(g) *Objection to recommended settlement.* Any person who objects to a recommended settlement under paragraph (e) of this section may, within fifteen (15) days after the recommended settlement is filed with the hearing examiner, request the hearing examiner to conduct a hearing under 5 U.S.C. section 554 concerning the claim.

§ 296.9 Proof.

(a) *Burden of proof.* The claimant has the burden to establish, by the preponderance of the evidence, all facts necessary to demonstrate eligibility for, and the amount of, compensation under this Part, including but not limited to:

(1) The identity or nature of the item which caused the damage to or loss of the fishing gear which is the subject of the claim; and

(2) That the item described in paragraph (a)(1) of this section is associated with oil and gas exploration, development, or production on the Outer Continental Shelf.

(b) *Presumption.* Paragraph (a) of this section notwithstanding, damages or losses are presumed to be valid and caused by activities associated with oil and gas exploration, development, or production activities on the OCS if the claimant establishes that:

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by OCS oil and gas exploration, development, or production activities (the damage or loss need not occur in one of the geographic areas described in section 296.3(a));

(2) A report on the location of the obstruction which caused such damage or loss, and the nature of such damage or loss, was properly made under section 296.7(a) of this Part within five days after the date when such damage or loss was discovered;

(30 There is no record on the most recent nautical charts issued by the National Ocean Survey, NOAA, or in any Local Notice to Mariners issued by the U.S. Cost Guard, or in any weekly Notice to Mariners issued by the Defense Mapping Agency, Hydrographic/Topographic Center, on or before the date such damage or loss was suffered, that an obstruction existed in such area; and

(4) There was no proper surface marker or lighted buoy attached or closely anchored to such obstruction.

§ 296.10 Hearings.

(a) *General.* Hearings on claims filed under this Part are governed by 5 U.S.C. 554 and this section.

(b) *Beginning the hearing process.* The Chief, FSD, institutes a hearing under this section by requesting a hearing examiner and referring the claim to the hearing examiner.

(c) *Hearing examiners.* (1) Who presides. All hearings shall be presided over by a hearing examiner appointed under 5 U.S.C. section 3105.

(2) *How assigned.* The Chief, FSD, will assure that a hearing examiner is designated.

(3) *Powers.* Hearing examiners have all powers necessary for the conduct of fair and impartial hearings, including the power to:

(i) Administer oaths and affirmations;

(ii) Issue subpoenas upon proper application as provided in paragraph (r) of this section;

(iii) Rule upon offers of proof and receive relevant evidence;

(iv) Take, or cause to be taken, depositions and to determine their scope;

(v) Regulate the course of the hearing and the conduct of the parties and their counsel therein;

(vi) Consider and rule upon requests submitted under § 296.8(g) of this Part to conduct a hearing under 5 U.S.C. section 554 concerning a claim;

(vii) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(viii) Consider and rule upon motions, procedural requests, and similar matters;

(ix) Rule on a request to participate as a party in the proceedings;

(x) rule on discovery requests, and to take or cause depositions or interrogatories to be taken;

(xi) Examine and cross-examine witnesses;

(xii) Introduce documentary or other evidence into the record;

(xiii) Require the submittal of evidence, including, but not limited to, that described in section 296.7(f) of this Part;

(xiv) Make and file decisions in conformity with this Part; and

(xv) Take any action authorized by the rules in this Part or in conformance with 5 U.S.C. section 554.

(4) *Consultation.* a hearing examiner shall not consult with any person on any fact in issue unless upon notice and opportunity for all parties to participate.

(5) *Disqualification.* (i) If a hearing examiner deems himself/herself disqualified to preside in a hearing, then the hearing examiner shall withdraw

from the hearing by notice on the record directed to the Chief, FSD.

(ii) If any party believes that a hearing examiner should be disqualified to preside, or to continue to preside in a hearing, the party may file with the hearing examiner a motion that the hearing examiner be disqualified and withdrawn from the hearing.

(iii) If the hearing examiner denies the motion under § 296.10(c)(5)(ii), the party may file with the Chief, FSD, a motion to disqualify and remove the hearing examiner. The Chief, FSD, shall rule upon the motion.

(iv) Any motion filed under § 296.10(c)(5)(ii) or (iii) shall be supported by affidavits setting forth the alleged grounds for disqualification.

Prehearing Process

(d) *Notice of Intent to submit evidence.* Any person who (i) has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost and (ii) intends to submit evidence at any hearing conducted concerning the claim shall file notice with the hearing examiner within thirty (30) days after the date of the publication of notice of the filing of the claim in the Federal Register under § 296.8, that such person intends to submit evidence.

(e) *Location and Time of Hearing.* (1) Hearings under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred.

(2) If the matter occurred within two or more districts, the hearing shall be conducted in any of the affected districts, or, if the matter occurred outside of any district, in the nearest district.

(3) The hearing examiner shall determine the location and time of any hearing, after giving due regard to the convenience of all interested parties.

(f) *Notice of Hearing.* As soon as practicable after the claim is referred to the hearing examiner, the hearing examiner shall by registered or certified mail notify the claimant, the Chief, FSD, and all other interested parties of the time and place for, and the nature of, any hearing. The notice shall include the legal authority and jurisdiction under which the hearing is to be held, and shall describe the general substance of the matters of fact and law asserted.

(g) *Motions and Requests.* Motions or requests shall be filed in writing with the hearing examiner or shall be stated orally and made part of the hearing record. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The hearing examiner is authorized to rule upon all motions or requests filed or made before the issuance of a decision.

(h) *Prehearing Conference.* (1) Upon the hearing examiner's own motion or the motion of any party, the hearing examiner may direct the parties or their counsel to meet in a prehearing conference to consider:

(i) Simplification of the issues;

(ii) Necessity or desirability of amendments to the claim or response for purposes of clarification, simplification, or limitation of the issues;

(iii) Stipulations, admissions of fact and of contents, and authenticity of documents;

(iv) Limitation of the number of expert witnesses; and

(v) Such other matters as may tend to expedite the disposition of the proceeding.

(2) The record shall show the matters disposed of by order and by agreement in such prehearing conferences.

(i) *Amendment of claims.* At any time before the close of the hearing, the hearing examiner, in his or her discretion and on such terms as he or she may approve, may allow the claimant to amend the claim. The 120-day decision period described in paragraph (m)(2)(ii) of this section shall begin on the date the amended claim is received by the hearing examiner.

(j) *Settlement.* (1) If a written agreement to settle the claim is signed by the claimant and the Chief, FSD, and filed with the hearing examiner before the hearing examiner issues a decision under paragraph (m)(2) of this section, then the hearing shall be suspended and the hearing examiner shall consider the recommended settlement. The hearing examiner shall not approve the recommended settlement sooner than 15 days after it is filed. Thereafter, the hearing examiner may certify an amount ot be paid by the Fund on the basis of the recommended settlement if the hearing examiner determines that there are no facts in evidence on the record of the hearing which clearly and convincingly would result in either:

(i) A bar (as specified in § 296.5(c) of this Part) to the payment of the claim; or

(ii) A limitation (as specified in §§ 296.5 and 296.6 of this Part) of the amount of the award to an amount which is less favorable to the claimant than is the amount specified in the recommended settlement agreement.

(2) An agreement between the claimant and any person to settle the claim, by means other than by payment from the Fund under this Part, if filed with the hearing examiner before the hearing examiner issues a decision under paragraph (m)(2) of this section shall, upon its filing, terminate the hearing proceeding. Upon receipt of the agreement, the hearing examiner shall dismiss the claim, and neither the claimant nor any party to such agreement shall be charged any costs under § 296.11 of this Part.

Hearings and Related Matters

(k) *Appearances.* (1) *Representation.* A party may appear at a hearing under this Part in person, by counsel, or by other representative.

(2) *Failure to appear.* Failure of a party to appear at a hearing (i) constitutes waiver of the right to a hearing under this Part; (ii) constitutes consent of the party to the making of a decision on the record of the hearing; but (iii) shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's decision.

(l) *Hearing.* (1) *Order of presenting evidence.* Except as may be determined otherwise by the hearing examiner, the claimant shall present evidence first at the hearing.

(2) *Evidence.* (i) *General.* The testimony of witnesses shall be upon oath or affirmation administered by the hearing examainer and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The hearing examiner shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(ii) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-exmaniation or the failure to limit such scope, the party shall state briefly the grounds for such objection. Rulings on each objection shall appear in the record. Only objections made to the hearing examiner may be relied upon subsequently in the proceeding.

(iii) *Exceptions.* Formal exception to an adverse ruling is not required.

(iv) *Surveyed obstructions.* The hearing examiner shall consider evidence of any obstructions in the area concerned identified by a survey conducted by the National Ocean Survey under 43 U.S.C. section 1847.

(3) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which NOAA by reason of its functions is presumed to be expert. The parties shall be given adequate notice, at the hearing or otherwise, before the hearing examiner's decision, of the matters so

noticed, and shall be given adequate opportunity to show the contrary.

(4) *Verbatim record.* The Chief, FSD, shall arrange for a verbatim record of the proceedings. A transcript will not be prepared unless either an appeal is taken under § 296.12 of this part or the hearing examiner specifically so orders. Any party may, however, obtain a transcript from the official reporter upon written request filed with the reporter and upon payment of the fees at the rate provided in the agreement between NMFS and the reporter.

Decision

(m) *Decision of the hearing examiner.* (1) *Proposed findings of fact, conclusions of law, and order.* Within ten (10) days after the hearing or within such additional time as the hearing examiner may allow, any party may file with the hearing examiner proposed findings of fact, conclusions of law, and order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within ten (10) days after receipt of the proposed findings and conclusions to which they respond, unless the hearing examiner sets a different schedule.

(2) *Time of Decision.* (i) Within fifteen (15) days after the time allowed for the filing of proposed findings of fact, conclusions of law, and order, and reply briefs, the hearing examiner shall issue a written decision upon the record in the case, which shall become the final decision in the administrative process upon service thereof on the claimant, the Chief, FSD, and any other interested parties.

(ii) The hearing examiner shall issue a decision not later than one hundred twenty (120) days after the date the Chief, FSD referred the claim to the hearing examiner.

(3) *Contents of decision.* The decision of the hearing examiner shall state:

(i) The hearing examiner's findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of an award, the hearing examiner shall state reasons in view of the applicable factors which must be considered, as set forth in §§ 296.5, 296.6, and 296.7 of this Part. The hearing examiner shall specify from which area account any award shall be made. The hearing examiner shall assess costs under § 296.11 of this Part if the hearing examiner finds that the claimant, or any other person who denies responsibility for damages with respect to which the claim is made, is responsible for the damage which is the subject of the claim;

(ii) The hearing examiner's reasons for rejecting the findings and conclusions proposed by the parties; and

(iii) Such other matters as the hearing examiner considers appropriate.

(4) *Transmittal of decision.* The hearing examiner shall transmit the decision to the Chief, FSD, and serve a copy on each party.

(n) *Transmittal of Record.* The hearing examiner shall transmit the record of the proceeding to the Chief, FSD. The record shall include: the pleadings, motions, and requests filed in written form, rulings thereon, the verbatim record of the testimony and proceedings taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, orders, and supporting reasons, and reply briefs, as may have been filed, the hearing examiner's decision, and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

Miscellaneous

(o) *Service of documents.* (1) *Manner of service.* Service upon any party shall be made by delivering or mailing a copy to the last known address of the party. If a party is represented by counsel, the service shall be made upon the counsel.

(2) *Proof of service.* A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of said service, shall be proof of the service.

(p) *Witnesses and fees.* Witnesses subpoenaed by a party shall be paid the same fees and mileage, and in the same manner, as are paid for like services in the District Court of the United States for the district in which the hearing is located.

(q) *depositions.* (1) *application.* Any party desiring to take the deposition of a witness shall make application in writing to the hearing examiner, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and mailing address of the person before whom the deposition is requested to be taken; the name and address of each witness to appear for deposition; and the subject matter concerning which each witness is expected to testify.

(2) *How, and by whom taken.* Depositions may be taken orally or upon written interrogatories before any person ("the officer") designated by the hearing examiner and having power to administer oaths.

(3) *Notice.* Such notice as the hearing examiner shall order shall be given for the taking of a deposition, but this shall not be less than five (5) days' written notice when the deposition is to be taken within the United States and not less than twenty (20) days' written notice when the deposition is to be taken elsewhere.

(4) *taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and any party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, signed by the witness unless waived, and certified by the officer. Thereafter, the officer shall deliver or mail by registered or certified mail the same to the hearing examiner. Subject to such objections to the quesitons and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by any party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance existed at the time of hearing.

(r) *Subpoenas.* A party may request the hearing examiner to issue a subpoena for the attendance and testimony of witnesses and for production of documentary or other evidence. All applications for subpoenas shall be in writing. Application for subpoenas for production of documents or other evidence shall specify as exactly as possible the documents or other evidence to be produced, showing their general relevance and reasonable scope.

(s) *Computation of time.* Saturdays, Sundays, and holidays shall be included in computing the time allowed for filing any document or paper under this section, but when such time expires on such a day, such period shall be extended to include the next following Federal Government working day.

(t) *Extension of time.* The time for the filing of any document under this section may be extended by the hearing examiner, if

(1) The request for the extension of time is made before or on the final date allowed for the filing, and

(2) The hearing examiner, after giving notice to and considering the views of all other parties (when practicable), determines that there is good reason for the extension.

§ 296.11 Payment of costs.

(a) *By person denying responsibility for damage.* Any person who:

(1) Is notified by the Secretary of the Interior under § 296.8(d) of this Part, or who is notified in writing by the claimant that the person has caused, or is believed to have caused, damage with respect to which a claim is made;

(2) Denies, or fails to either affirm or deny, responsibility for such damage; and

(3) Is found by the hearing examiner or by a court of law to be responsible for the damage, shall pay the costs of the proceedings under this Part with respect to such claim.

(b) *By the claimant.* Any claimant who files a claim under this Part and is found by the hearing examiner or by a court of law to be responsible for such damage, shall pay the costs of the proceedings under this Part with respect to such claim.

§ 296.12 Appeals.

(a) *Time.* Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this part may, no later than sixty (60) days after the hearing examiner issues a decision under § 296.10(m) of this Part, seek judicial review of such decision in the United States Court of Appeals for the Federal judicial circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States Court of Appeals for the nearest circuit.

(b) *Notice.* Any person who appeals a decision of a hearing examiner under this section shall so notify the claimant, any respondents, and the Chief, FSD, in writing at the same time the appellant files an appeal with the appropriate United States Court of Appeals.

§ 296.13 Payment of award for claim.

(a) *Amount.* The Chief, FSD, will pay the amount of the award certified in the decision of the hearing examiner under § 296.10(m) of this Part.

(b) *Area account.* The payment will be disbursed from the area account specified in the decision of the hearing examiner under § 296.10(m) of this Part.

(c) *Time of payment.* (1) No payment will be made under this section until the claimant has signed a subrogation agreement under § 296.14 of this Part.

(2) No payment will be made under this section if an appeal has been filed under section 296.12 of this Part.

§ 296.14 Subrogation.

(a) *Agreement.* Before receiving payment under this Part, a claimant shall sign a subrogation agreement in a form satisfactory to the Chief, Financial Services Division, NMFS, which:

(1) Assigns to the Fund all rights the claimant has, and might have, to proceed against any person for damages with respect to any part of the damage or loss for which the award is being made; and

(2) Provides that the claimant will assist the Fund in any reasonable way to pursue collection of the subrogated rights.

(b) *Collection of subrogated rights.* The Chief, FSD, shall refer all subrogated rights to the Department of Justice for collection in those instances in which it appears that a reasonable chance of successful collection exists.

Appendix 1

A. *Freeport District*—The U.S. Geological Survey's Freeport District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Padre Island Area, Texas Map No. 1 (Approved July 16, 1954). That portion seaward of the 3-league line.
2. OCS Leasing Map, South Padre Island Area, East Addition, Texas Map No. 1A (Approved May 6, 1965).
3. OCS Leasing Map, North Padre Island Area, Texas Map No. 2 (Approved July 16, 1954). That portion seaward of the 3-league line.
4. OCS Leasing Map, North Padre Island Area, East Addition, Texas Map No. 2A (Approved May 6, 1965).
5. OCS Leasing Map, Mustang Island Area, Texas Map No. 3 (Approved July 16, 1954; Revised October 30, 1961). That portion seaward of the 3-league line.
6. OCS Leasing Map, Mustang Island Area, East Addition, Texas Map No. 3A (Approved January 23, 1967).
7. OCS Leasing Map, Matagorda Island Area, Texas Map No. 4 (Approved July 16, 1954). That portion seaward of the 3-league line.
8. OCS Leasing Map, Brazos Area, Texas Map No. 5 (Approved July 16, 1954). That portion seaward of the 3-league line.
9. OCS Leasing Map, Brazos Area, South Addition, Texas Map No. 5B (Approved September 24, 1959).
10. OCS Leasing Map, Galveston Area, Texas Map No. 6 (Approved July 16, 1954). That portion seaward of the 3-league line.
11. OCS Leasing Map, Galveston Area, South Addition, Texas Map No. 6A (Approved September 24, 1959).
12. OCS Leasing Map, High Island Area, Texas Map No. 7 (Approved July 16, 1954; Revised August 1955). That portion seaward of the 3-league line.
13. OCS Leasing Map, High Island Area, East Addition, Texas Map No. 7A (Approved January 23, 1967). That portion seaward of the 3-league line.
14. OCS Leasing Map, High Island Area, South Addition, Texas Map No. 7B (Approved September 24, 1959).
15. OCS Leasing Map, High Island Area, East Addition, South Extension, Texas Map No. 7C (Approved September 24, 1959).
16. OCS Leasing Map, Sabine Pass Area, Texas Map No. 8 (Approved March 7, 1977). That portion on the Texas side of the Texas-Louisiana Line that is seaward of the 3-league line.
17. OCS Official Protraction Diagram, Corpus Christi NG 14-3 (Approved June 5, 1974; Revised January 27, 1976).
18. OCS Official Protraction Diagram, Port Isabel NG 14-6 (Approved June 5, 1974; Revised January 27, 1976).
19. OCS Official Protraction Diagram, East Breaks NG 15-1 (Approved June 8, 1973; Revised January 27, 1976).
20. OCS Official Protraction Diagram, Alaminos Canyon NG 15-4 (Approved June 5, 1974; Revised March 26, 1976).
21. OCS Official Protraction Diagram, Garden Banks NG 15-2 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 142 at the northeast corner and block 978 at the southeast corner.
22. OCS Official Protraction Diagram, Keathley Canyon NG 15-5 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 10 at the northeast corner and block 978 at the southeast corner.

B. *Lake Charles District*—The U.S. Geological Survey's Lake Charles District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Cameron Area, Louisiana Map No. 1 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the lines described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13)
2. OCS Leasing Map, West Cameron Area, West Addition, Louisiana Map No. 1A (Approved November 15, 1955; Revised January 30, 1957).
3. OCS Leasing Map, West Cameron Area, South Addition, Louisiana Map No. 1B (Approved September 8, 1959).
4. OCS Leasing Map, East Cameron Area, Louisiana Map No. 2 (Approved June 8, 1954; Revised August 1, 1973). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, East Cameron Area, South Addition, Louisiana Map No. 2A (Approved September 8, 1959).
6. OCS Leasing Map, Vermilion Area, Louisiana Map No. 3 (Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States

Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

7. OCS Leasing Map, Vermilion Area, South Addition, Louisiana Map No. 3B.

8. OCS Leasing Map, Sabine Pass Area, Louisiana Map No. 12 (Approved March 7, 1977). That portion on the Louisiana side of the Texas-Louisiana line, more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

9. OCS Official Protraction Diagram, Garden Banks NG 15-2 (Approved February 15, 1973; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 143 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 80 at the northeast corner and the east line of block 1004 at the southeast corner.

10. OCS Official Protraction Diagram, Keathley Canyon NG 15-5 (Approved June 15, 1974; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 11 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 36 at the northeast corner and the east line of block 1004 at the southeast corner.

C. *LaFayette District*—The U.S. Geological Survey's Lafayette District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Marsh Island Area, Louisiana Map No. 3A (Approved August 7, 1959).

2. OCS Leasing Map, South Marsh Island Area, South Addition, Louisiana Map No. 3C (Approved September 8, 1959).

3. OCS Leasing Map, South Marsh Island Area, North Addition, Lousiana Map No. 3D (Approved April 16, 1971; Revised January 18, 1972). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

4. OCS Leasing Map, Eugene Island Area, Louisiana Map No. 4 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

5. OCS Leasing Map, Eugene Island Area, South Addition, Louisiana Map No. 4A (Approved September 8, 1959).

6. OCS Official Protraction Diagram, Ewing Bank NH 15-12 (Approved February 15, 1973; Revised December 2, 1976). That portion that consists of blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.

7. OCS Official Protraction Diagram, Green Canyon NG 15-3 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 980 at the southeast corner.

8. OCS Official Protraction Diagram, Walker Ridge NG 15-6 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 980 at the southeast corner.

9. OCS Official Protraction Diagram, Garden Banks, NG 15-2 (Approved February 15, 1976; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 81 at the northwest corner and the west line of block 1005 at the southwest corner.

10. OCS Official Protraction Diagram, Keathley Canyon NG 15-5 (Approved June 5, 1974; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 37 at the northwest corner and the west line of block 1005 at the southwest corner.

D. *Houma District*—The U.S. Geological Survey's Houma District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, Ship Shoal Area, Louisiana Map No. 5 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

2. OCS Leasing Map, Ship Shoal Area, South Addition, Louisiana Map No. 5A (Approved September 8, 1959).

3. OCS Leasing Map, South Pelto Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

4. OCS Leasing Map, Bay Marchand Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

5. OCS Leasing Map, South Timbalier Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

6. OCS Leasing Map, South Timbalier Area, South Addition, Louisiana Map No. 6A (Approved September 8, 1959; Revised July 22, 1968).

7. OCS Leasing Map, Grand Isle Area, Louisiana Map No. 7 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

8. OCS Leasing Map, Grand Isle Area, South Addition, Louisiana Map No. 7A (Approved September 8, 1959; Revised March 7, 1961).

9. OCS Official Protraction Diagram, Ewing Bank NH 15-12 (Approved February 15, 1973; Revised December 2, 1976). That portion that does not include blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.

10. OCS Official Protraction Diagram, Green Canyon NG 15-3 (Approved February 15, 1973; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 981 at the southwest corner.

11. OCS Official Protraction Diagram, Walker Ridge NG 15-6 (Approved June 5, 1974; Revised December 2, 1976.) That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 981 at the southwest corner.

E. *Metairie District*—The U.S. Geological Survey's Metairie District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Delta Area, Louisiana Map No. 8 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

2. OCS Leasing Map, West Delta Area, South Addition, Louisiana Map No. 8A (Approved September 8, 1959; Revised November 24, 1961).

3. OCS Leasing Map, South Pass Area, Louisiana Map No. 9 (Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

4. OCS Leasing Map, South Pass Area, South and East Addition, Louisiana Map No. 9A (Approved September 8, 1959).

5. OCS Leasing Map, Breton Sound Area, Louisiana Map No. 10 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

6. OCS Leasing Map, Main Pass Area, Louisiana Map No. 10 (approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

7. OCS Leasing Map, Main Pass Area, South and East Addition, Louisiana Map No. 10A (Approved September 8, 1959).

8. OCS Leasing Map, Chandeleur Area, Louisiana Map No. 11 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

9. OCS Leasing Map, Chandeleur Area, East Additiona, Louisiana Map No. 11A (Approved September 8, 1959).

10. OCS Official Protraction Diagram, NG 16-1 (Approved June 5, 1974; Revised December 2, 1976).

11. OCS Official Protraction Diagram, NG 16–2 (Approved December 2, 1976).
12. OCS Official Protraction Diagram, The Elbow NG 16–3 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
13. OCS Official Protraction Diagram, NG 16–4 (Approved December 2, 1976).
14. OCS Official Protraction Diagram, NG 16–5 (Approved December 2, 1976).
15. OCS Official Protraction Diagram, NG 16–6 (Approved June 5, 1974; Revised December 2, 1976).
16. OCS Official Protraction Diagram, St. Petersburg NG17–1 (Approved October 10, 1972; Revised December 2, 1976).
17. OCS Official Protraction Diagram, Charlotte Harbor NG17–4 (Approved October 10, 1972; Revised December 2, 1976).
18. OCS Official Protraction Diagram, Mobile NH 16–4 (Approved October 10, 1972; Revised December 21, 1977).
19. OCS Official Protraction Diagram, Pensacola NH 16–5 (Approved October 10, 1972; Revised December 2, 1976).
20. OCS Official Protraction Diagram, Viosca Knoll NH 16–7 (Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; revised December 2, 1976).
21. OCS Official Protraction Diagram, Destin Dome NH 16–8 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
22. OCS Official Protraction Diagram, Apalachicola NH 16–9 (Approved October 10, 1972; Revised August 1, 1973; Revised January 15, 1976).
23. OCS Official Protraction Diagram, Mississippi Canyon NH 16–10 (Approved February 15, 1973; Revised December 2, 1976).
24. OCS Official Protraction Diagram, De Soto Canyon NH 16–11 (Approved June 5, 1974; Revised December 2, 1976).
25. OCS Official Protraction Diagram, Florida Middle Ground NH 16–12 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
26. OCS Official Protraction Diagram, Gainesville, NH 17–7 (Approved October 10, 1972; Revised December 2, 1976).
27. OCS Official Protraction Diagram, Tarpon Spring NH 17–10 (Approved October 10, 1972; Revised December 2, 1976).

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Part VII

Environmental Protection Agency

Federal Responses to Radioactive Contamination From Specified Nuclear Detonations; Multiagency Memorandum of Understanding Among AF, DOE, EPA, FAA, FDA, NOAA, and NRC

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1231-4]

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding Among AF, DOE, EPA, FAA, FDA, NOAA, and NRC

Background

The following agencies have complementary roles in responding to potential radioactive contamination due to specified foreign nuclear detonations during peacetime: Department of the Air Force (DAF); Department of Energy (DOE); Environmental Protection Agency (EPA); Department of Health, Education, and Welfare, Food and Drug Administration (FDA); Department of Commerce, National Oceanic and Atmospheric Administration (NOAA); Nuclear Regulatory Commission (NRC); and Department of Transportation, Federal Aviation Administration (FAA). At present, specified nuclear detonations consist of those atmospheric nuclear detonations which are announced by the DOE.

Two types of response conditions have been identified. The first deals with the movement of contaminated air masses over the United States and possible effects at ground level due to dry fallout or rainout of radioactive debris. The second type of response concerns civil aircraft which may pass through contaminated air masses at various altitudes.

Specific agency responsibilities under two types of response conditions are outlined below as Parts I and II, respectively, in this Memorandum of Understanding.

Purpose and Scope

The purpose of this Memorandum of Understanding is to identify responsibilities and interactions of Federal agencies concerned with monitoring radioactive contamination from foreign nuclear detonations and protecting the public from adverse effects of such contamination.

This Memorandum of Understanding formally outlines agreements regarding continuation of communications, policies and ongoing cooperative efforts to enable each agency to most effectively carry out its responsibilities, to make the most efficient use of Federal resources, and to protect the public health and safety and the environment.

Agency Responsibilities

Under Reorganization Plan No. 3 of 1970, the Environmental Protection Agency (EPA) has the overall Federal responsibility for national ambient radiation monitoring. This includes the collection, analysis, and interpretation of data on environmental radiation levels attributed to radioactive contamination from foreign nuclear detonations during peacetime. EPA is the Federal agency responsible for advising the President and the general public on the potential health significance of such radioactive contamination. In this context, EPA is responsible for coordinating all Federal activities for public health protection and dissemination of information to the public. To effectively carry out these responsibilities, EPA needs the cooperation of several other Federal agencies. Therefore, EPA has taken the lead in developing this Memorandum of Understanding to assure coordination in the collection and dissemination of information regarding potential radioactive contamination from foreign nuclear detonations. The responsibilities of each agency as outlined below are within the scope of authorities already possessed by each agency.

Distribution of Information

Any unclassified information or data collected by any of the agencies who are part of this ageement shall be communicated to any of the other signatories of this agreement upon their request. All public announcements or press releases generated by any of the signatories shall be communicated to the other signatory agencies in as expeditious a manner as possible.

Part I.—Responses Regarding Movement of Contaminated Air Masses and Potential Ground Level Effects

A. *Department of the Air Force* (DAF). 1. Provides classified data to NOAA on nuclear debris samples to include location, time, altitude, and concentration of airborne samples. These data will be provided from sorties satisfying DAF or FAA mission requirements. If NOAA has additional data requirements, DAF will be reimbursed for resources expended. Reimbursement procedures will be established in a separate DAF-NOAA memorandum. DOE will be provided a copy of the data.

2. Data will be provided as soon as possible after every sampling mission.

B. *Department of Energy* (DOE). 1. Gathers information on the nature of the nuclear detonation, i.e., location, time, yield, and height of detonation and reports this information to NOAA.

2. Makes public announcements on the occurrence of specified nuclear detonations and provides this information directly to the EPA, FDA, and NRC prior to such public release.

3. Collects data from radiation measurements made at DOE facilities, including national laboratories, that are pertinent to fallout and reports these data to EPA and to other agencies upon request.

4. Will provide to NOAA any advisories released by its Atmospheric Release Advisory Capability Center at Livermore, Calif., including forecasts of radiation levels, and estimates of size and movement of radioactive clouds on a 12-hourly basis, with more frequent updates if appropriate.

C. *Environmental Protection Agency* (EPA). 1. Notifies State agencies with responsibility for environmental radiation monitoring of the possibility of radioactive fallout occurring. Keeps affected State agencies informed on the regional and national radiological picture as information develops.

2. Provides predictions from NOAA on pathways of contaminated air mass movements over the United States and areas of possible rainout of radioactive materials to Federal agencies and the general public.

3. Recommends radiation surveillance or protective actions to appropriate State agencies.

4. Activates the standby portions of the Environmental Radiation Ambient Monitoring System (ERAMS) and increases the frequency of sample collections in those parts of ERAMS which operate routinely in order to assess the national radiological fallout situation. The collection of pasteurized milk samples will be coordinated through the Food and Drug Administration, HEW.

5. Collects additional monitoring program information from State agencies, DOE, and NRC as necessary to further assess the national radiological situation.

6. Prepares regional and national radiological assessments including interpretations of data relative to health impacts and issues this information as news releases. When news releases involve information relative to the direct concern of/or activities regulated by a signator of this agreement, such releases would be cleared with the interested agency prior to issuance, e.g., releases involving information on foods and animal feeds would be cleared with FDA. All signatory agencies would receive copies of press releases. The public will be advised of recommended protective actions in accordance with Federal radiation guidance and other appropriate radiation protection criteria as necessary.

7. Keeps other Federal agencies informed on regional and national radiological situations as appropriate to their mission. This includes routine information updatings to NOAA, DOE, FDA, and NRC, and information to others upon request.

D. *Food and Drug Administration* (FDA). The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is responsible for the enforcement of a number of public health laws including the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). FDA's activities under the FD&C Act are directed toward the protection of public health of the Nation by assuring that foods, exclusive of water from domestic consumption, are safe and wholesome. This responsibility is accomplished in part through comprehensive scientific and medical evaluation of known and possible food and feed contaminants such as radioactive contamination. In exercising this responsibility with regard to radioactive food and feed contamination, FDA determines the public health significance of such contamination, and advises the States and public at large accordingly. Specifically, FDA:

1. Receives information from NOAA regarding the probable location of fallout contamination, and consults with EPA concerning radiation surveillance and protective actions.

2. At the request of EPA, FDA through its regional representatives will alert State and local agencies to increase or decrease the frequency of pasteurized milk sample collection, according to FDA's ongoing cooperative role in milk sampling for EPA's Environmental Radiation Ambient Monitoring System.

3. Collects and analyzes food and animal feed samples for radionuclides from fallout as deemed necessary.

4. Assists EPA in analysis of milk samples associated with a fallout incident when requested.

5. In consultation with EPA, provides guidance to State and local governments in regard to appropriate responses necessary for evaluating and preventing hazardous radioactive contamination of foods and animal feeds and the control and use of such products should they become contaminated.

6. Cooperates with EPA in the exchange of all scientific and analytical data associated with a fallout incident.

7. Participates in the review and clearance of EPA press releases relative to food or animal feed contamination by radioactive fallout.

E. *National Oceanic and Atmospheric Administration* (NOAA). 1. The official NOAA forecast will be the basis for all public announcements by other agencies on the movement of airborne radioactivity and areas of potential rainout of nuclear debris. These forecasts will be identified as NOAA forecasts. In preparing these forecasts, NOAA will take into account all data and forecasts provided by DOE, DAF, and other sources. NOAA will provide the official forecast to EPA and DOE routinely, and to other agencies upon request.

2. NOAA will provide information on predicted location and radioactivity concentration of contaminated air masses to the other agencies upon request.

3. Transmits the official EPA public announcements to its National Weather Service Forecast Offices over the NOAA Radar Report and Warning Coordination Teletypewriter Network (RAWARC) for dissemination by local forecast offices in answering local public or news media inquiries.

F. *Nuclear Regulatory Commission* (NRC). 1. Notifies appropriate NRC licensees of possibility of radioactive fallout as it deems necessary.

2. Reports to EPA any data obtained from NRC licensees relating to radioactive fallout. Upon special request by a signatory of this agreement, NRC will query appropriate licensees to obtain information which these licensees may possess regarding radioactive fallout and may request the voluntary assistance of licensees in conducting special sampling and analysis, as appropriate. NRC will not, however, routinely request licensee data or assistance.

3. Participate in the review and clearance of EPA press releases relative to the involvement of NRC licensees.

Part II.—Responses Regarding Civil Aircraft Flights Through Contaminated Air Masses

The Federal Aviation Administration (FAA) is responsible for the safety of air commerce. In the event of the detonation of a nuclear device producing airborne radioactivity which presents a potential hazard to air commerce, the FAA will assemble an in-house task force to implement its standing operating procedures. Information on the activities of this task force will be disseminated to designated representatives of Department of the Air Force (DAF), Environmental Protection Agency (EPA), Department of Energy (DOE) and National Oceanic and Atmospheric Administration (NOAA). This task force will serve as the Federal focus of activities related to ensuring the protection of air commerce from hazards associated with airborne radioactivity. The responsibilities of each of the agencies in support of the activities of this task force are outlined below:

A. *Department of the Air Force.* 1. Will provide sampling aircraft for detection and measurement of debris concentrations at altitudes of civil aircraft flight (FL250–600), on a noninterference basis with normal DAF missions as requested by FAA. If feasible, FAA requirements will be accomplished concurrently with Air Force requirements; if not, DAF is to be reimbursed for resources expended to meet FAA sampling requirements. Reimbursement procedures will be established in a separate memorandum.

2. Will provide data to FAA on atmospheric concentrations of nuclear debris in picocuries per cubic meter. Data will be provided every 12 hours and will include position of debris, and 12/24 hour forecast location. Copies will be provided to DOE and NOAA.

B. *Department of Energy.* 1. Will provide to FAA, through its Atmospheric Release Advisory Capability Center at Livermore, California, forecasts of radiation levels at flight altitudes, and estimates of size and movement of radioactive clouds on a 12-hour basis, with more frequent updates if appropriate; copies of such data will also be simultaneously forwarded to NOAA.

2. Will provide support to FAA in the form of radiological monitoring of aircraft at selected airports and in flight, as is compatible with DOE resources.

C. *Environmental Protection Agency.* 1. Will provide consultation and guidance to FAA on appropriate limits of exposure for aircraft passengers.

2. Will provide guidance to FAA on appropriate limits of surface contamination in situations not otherwise covered in existing FAA or Department of Transportation regulations.

3. Will work with FAA in its development and updating of appropriate standing operating procedures for radiological monitoring, radiation exposure control, record keeping, and decontamination.

4. Will provide interpretation of radiological monitoring data and other radiological health-related material, as required.

5. Prepares regional and national radiological assessments including interpretations of data relative to health impacts and issues this information as news releases. When news releases involve information on civil aircraft they will have their specific language approved by FAA.

D. *Federal Aviation Administration.* 1. Will ensure that the best possible information is made expeditiously available to users, including appropriate air traffic control centers, airman's information centers and airlines, with respect to airspace which should be avoided due to potential or actual radioactive contamination.

2. Will ensure that appropriate

radiological monitoring and record keeping procedures are instituted for air commerce, in accordance with the most recent FAA operating plans.

3. Will ensure the safety of air commerce by issuing appropriate regulations to the air transport industry.

4. Will provide the Department of the Air Force, Deputy Chief of Staff, Plans and Operations, Directorate of Operations and Readiness, Reconnaissance Division (AF/XOORZ) location, altitude, and required time of debris detection and measurement, and will advise the DAF when requirements are terminated.

5. Will act as principal Federal representative and focal point for all public and news media inquiries relative to aviation as it is or might be affected by radioactive debris.

6. Will establish and maintain through its communications center, proper coordination of Federal activities with regard to aviation with designated representatives of the agencies who have entered into Part II of this agreement.

E. *National Oceanic and Atmospheric Administration.* 1. The official NOAA forecast will be the basis for all public announcements by other agencies on the movement of airborne radioactivity and areas of potential rainout of nuclear debris. These forecasts will be identified as NOAA forecasts. In preparing these forecasts, NOAA will take into account all data and forecasts provided by DOE, DAF, and other sources. NOAA will provide the official forecasts to EPA, FAA and DOE routinely, and to other agencies upon request.

2. NOAA will provide information to FAA on predicted location and radioactivity concentration of contaminated air masses.

Public Information

DAF, DOE, EPA, FAA, NOAA, and NRC recognize the importance of providing timely and accurate information to the public regarding airborne radioactive contamination which may affect civil aircraft. Each agency further recognizes the potential disruption of national and international air commerce which could result from dissemination of inaccurate or misleading information on this subject. It is, therefore, agreed that during the time of concern over possible hazards to air commerce from airborne radioactive contamination, all inquiries from the public, news media, or industry regarding aviation as it is or might be affected by such contamination will be referred to the FAA, except that copies of official statements issued by FAA, or statements whose specific language has been approved by FAA, will be provided to EPA, and other agencies according to their needs, and may be disseminated by them in response to public and news media inquiries. FAA will also respond to general inquiries regarding DAF participation using information obtained in advance from the Secretary of the Air Force, Office of Information; for this purpose, direct interdepartmental public affairs contact is authorized. News media inquiries concerning DAF participation which cannot be answered within the context of predeveloped material will be referred to the Directorate for Defense Information, Office of the Assistant Secretary of Defense (Public Affairs).

Supplementary Agreements

This Memorandum of Understanding may be further implemented by supplementary agreements of the following types:

A. Authorized representatives of the signatory agencies may amplify or otherwise modify the policy or provisions in the memorandum or any of its supplements, provided that any material modification of the provisions in this memorandum or any of its supplements shall be subject to the approval of the authorized signators of this memorandum from each agency.

B. Supplementary agreements which affect fewer than the total number of agencies, and which are otherwise consistent with the purposes and provisions of the overall agreement, may be executed by only the parties concerned provided that advance copies of such supplementary agreements are made available to all signing agencies and the decision of other authorized signatories that they are affected and should be included in the supplementary agreement, shall be accepted by all.

Duration of Agreement

This Memorandum of Understanding shall take effect when accepted by all parties and shall endure for five years or until all but one of the parties have individually terminated it, whichever occurs first. The effective date of this agreement is April 15, 1979. This agreement may be renewed by review and approval of the parties after five years from acceptance, or earlier if terminated in accordance with the terms of the agreement.

Participation in this agreement may be terminated by any of the parties following 30 days advance written notice by that party to all of the other parties.

Supplementary agreements may be temporary and terminate on a certain date or upon completion, as provided.

The termination of any party's participation in this Memorandum of Understanding or any supplementary agreement does not render such agreements void to the other parties.

Implementing Agency Components

The following is a list of agency components with responsibilities for implementing the provisions of this Memorandum of Understanding. Each organizational component will designate specific personnel to be contacted on matters related to implementing this MOU. EPA shall provide each implementing component with an up-to-date list of these personnel semiannually or more frequently if EPA is notified of changes in personnel.

Department of the Air Force, Deputy Chief of Staff, Operations, Plans and Readiness, Directorate of operations and Readiness, Reconnaissance Division.

Department of Energy, Office of Assistant Secretary for Environment, Division of Operational and Environmental Safety.

Environmental Protection Agency, Office of Radiation Programs, Environmental Analysis Division.

Department of Health, Education, and Welfare, Food and Drug Administration, FDA Recall and Emergency Staff.

Department of Commerce, National Oceanic and Atmospheric Administration, Air Resources Laboratory.

Nuclear Regulatory Commission, Office of Inspection and Enforcement.

Department of Transportation, Federal Aviation Administration, Office of Environmental Quality.

Agreement Authority

This agreement is entered into under various provisions for interagency cooperation appearing in the legislative authorities of the signatory agencies.

For the Department of the Air Force.

Brig. Gen. Walter B. Ratliff,

Acting Director of Operations and Readiness.

For the Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

For the Environmental Protection Agency.

Paul Stolpman,

Acting Assistant Administrator for Air, Noise, and Radiation.

For the Federal Aviation Administration.

Charles R. Foster,

Associate Administrator for Aviation Standards.

For the Food and Drug Adminstration.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

For the National Oceanic and Atmospheric Administration.

George S. Benton,

Associate Administrator.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

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

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

26660 5-4-79 / Section 8 housing assistance payments program, special procedures for moderate rehabilitation program

Assistant Secretary for Housing—Federal Housing Commission—

26072 5-4-79 / Mortgage insurance on loans for fee title purchase; increase in maximum loan amounts

Office of the Secretary—

24053 4-24-79 / Fair market rents for new construction and substantial rehabilitation

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 22, 1979