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- 37790 **Alternative Fuel Demonstration facilities** DOE proposes rules providing for the implementation of federal loan guarantees, (Part IV of this issue)
- 37631 **Community Development Block Grants** HUD issues notice of transmittal of proposed rule to Congress
- 37818 **Health Care Facilities** HEW/HCFA proposes to extend use of Fire Safety Evaluation System, comments by 8-27-79 (Part V of this issue)
- 37604 **Annual Wage Reporting—Employees of State and Local Governments** HEW/SSA issues rule; effective 1-1-81
- 37866 **Adult Education Act** HEW/OE proposes rules of implementation, comments by 8-27-79 (Part X of this issue)
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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 Reg. 618]

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 June 29-July 5, 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: June 29, 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 June 26, 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 continues to be dull, with demand very limited.

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.

§ 908.918 Valencia Orange Regulation 618.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 29, 1979, through July 5, 1979, are established as follows:

- (1) District 1: 220,000 cartons;
- (2) District 2: 180,000 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: June 27, 1979.

D.S. Kuryloski,
Acting Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
(FR Doc. 79-20315 Filed 6-27-79; 11:51 am)
BILLING CODE 3410-02-M

7 CFR Part 911

[Florida Lime Reg. 40]

Limes Grown in Florida; Shipping Prohibition

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation prohibits the shipment of any limes grown in Florida during the period July 1-4, 1979. This action is necessary to prevent an accumulation of excessive supplies of limes in the retail markets during the July 4th holiday period, when sales are normally slow.

DATES: Effective July 1 through July 4, 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. 911, as amended (7 CFR Part 911; 43 FR 39319), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation is based upon recommendations and information submitted by the Florida Lime Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

Production of Florida limes for the 1979-80 season is estimated at 1,760,000 bushels, a level which indicates a complete recovery from the 1977 freeze. Fresh market utilization of Florida limes in the 1978-79 season was 755,337 bushels, and it is anticipated that fresh markets will require about 900,000 bushels during the 1979-80 season. Limes not needed to fill fresh market demand will be utilized in processing. Shipments so far this season, which began April 1, total 176,081 bushels, up 46 percent from a corresponding period last season. As a consequence of these heavy shipments, burdensome supplies are beginning to accumulate in the

markets. Continued heavy shipments could demoralize fresh markets. Hence, based on the available supply and current and prospective market demand conditions, action to curtail shipments as provided in this regulation is needed to prevent a burdensome lime supply in the fresh markets during the period following July Fourth holiday when demand is expected to be weak and movement slow. Such action will tend to promote orderly marketing in the interest of producers and consumers by allowing markets to clear. This would reduce deterioration and spoilage of the limes in the market place, as the supply would be maintained in line with market needs. Consequently, prohibiting lime shipments during the period hereinafter specified should assure a better balance between supply and demand, help provide good quality fruit to consumers, and improve returns to Florida lime growers.

Therefore, it is concluded that limiting the shipment of limes as hereinafter set forth is necessary to establish and maintain orderly marketing conditions in the interest of producers and consumers consistent with the declared policy of the act.

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.

Accordingly, it is found that the requirements for the handling of Florida limes should be and are established as follows:

§ 911.342 Florida Lime Regulation 40.

(a) Notwithstanding the provisions of § 911.341 (Lime Regulation 39, 44 FR 24561; 34465), during the period July 1, 1979, through July 4, 1979, no handler shall handle any limes grown in the production area in Florida.

(b) Terms used in this section shall have the same meaning as in the marketing order.

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

Dated, June 22, 1979, to become effective July 1, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-20114 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 922

[Apricot Regulation 6, Amendment 4]

Apricots Grown in Designated Counties in Washington; Container Regulation Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the current container regulation applicable to the handling of apricots grown in the production area. The current regulation requires that apricots packed in closed LA lugs be row-faced or tray-packed. The amendment would permit apricots to be packed loose in such containers under specified conditions necessary to guard against damage to fruit shipped to market. The action is necessary to promote orderly marketing of fresh apricots.

EFFECTIVE DATE: July 1, 1979.

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

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Washington Apricot Marketing Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This action has not been determined significant under the USDA criteria for implementing Executive Order 12044.

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 amendment 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 amendment at an open meeting. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time. This amendment relieves restrictions on the handling of apricots grown in Washington.

Therefore paragraph (a) of § 922.306 is amended by revising subparagraph (3), redesignating subparagraph (5) as subparagraph (6) and adding a new subparagraph (5). As amended subparagraphs (3), (5), and (6) read as follows:

§ 922.306 Apricot Regulation 6.

(a) * * *

(3) In closed containers with inside dimensions of 3¼ to 4¼ x 10½ x 15 inches and containing not less than 14 pounds, net weight, of apricots: *Provided,* That when the apricots are packed in such containers they are row-faced or tray-packed;

(4) * * *

(5) In closed LA lugs (inside dimensions of 5¾ x 13½ x 16½ inches) and equivalent cartons in which the apricots are row-faced or tray-packed: *Provided,* That apricots may be packed loose in such lugs or equivalent cartons if a top pad is used and the net weight of the apricots therein is not less than 24 pounds; or

(6) If exported to Canada, in any of the containers specified in this paragraph (a) or in containers having inside dimensions of 16½ x 11½ inches with 4¾ inch end pieces and 3¾ inch side pieces.

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

Dated: June 22, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-19978 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 923

[Cherry Regulations 18]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, and container requirements

on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in Washington for the 1979 season. The regulation takes into consideration the marketing situation facing the Washington sweet cherry industry and is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: July 1, 1979, through June 30, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* On May 23, 1979, notice was published in the Federal Register (44 FR 29904) inviting written comments not later than June 13, 1979, on proposed grade, size, and container requirements applicable to Washington sweet cherries during the 1979 season. No such material was submitted.

This regulation is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. 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 Washington Cherry Marketing Committee, and upon other information. It is hereby found that this 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.

This regulation is based upon an appraisal of the current and prospective market conditions for Washington sweet cherries. The committee estimates that 39,000 tons of sweet cherries will be available for fresh shipment during the 1979 season compared to actual shipment of 36,357 tons last season.

Under the regulations, shipments of cherries, except those of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", are required to grade Washington No. 1, except for a small increase in the tolerance for defects. The cherries also are required to be $\frac{4}{16}$ inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size is $\frac{5}{16}$ inch. The container requirements specify the minimum amount of cherries, by weight, required in the various types of containers. Individual shipments of cherries up to 100 pounds sold for home

use and not for resale are exempted from the grade, size, and container requirements, if certain conditions are met to prevent their movement into commercial markets.

The grade and size requirements are designed to ensure the shipment of ample supplies of cherries of the better grades and more desirable sizes in the interest of producers and consumers. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller-sized cherries when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following regulation is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of sweet cherries are currently in progress and this regulation should be applicable to all shipments made during the season in order to effectuate the declared policy of the act; (2) the regulation is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 923.318 Cherry Regulation 18.

Order. (a) *Grade and sizes.* During the period July 1, 1979, through June 30, 1980, no handler shall handle, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $\frac{4}{16}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $\frac{5}{16}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $\frac{4}{16}$ inch in diameter.

(b) *Containers.* During the period July 1, 1979, through June 30, 1980, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of $15\frac{1}{2}$ by $10\frac{1}{2}$ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee:

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $\frac{5}{16}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $\frac{4}{16}$ inch in diameter.

(c) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a) and (b) of this section, and of §§ 923.41 and 923.55:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(d) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: June 22, 1979, to become effective July 1, 1979.

D. S. Kuryloski,

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

FR Doc. 79-19380 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1402

Policy for Certain Commodities Available for Sale

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the Policy for Certain Commodities Available for Sale. It deletes the provision for publication of the contents of the press release entitled "CCC Monthly Sales List", as a Notice in the Federal Register. The sales list in Press Release form will continue to be issued and disseminated to potential buyers and other interested persons who request to be placed on the current mailing list.

EFFECTIVE DATE: 2:30 p.m. (EDT) May 31, 1979.

FOR FURTHER INFORMATION CONTACT: Eugene Maczka (ASCS) (202) 447-4593.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register on March 1, 1979, 44 FR 11555 stating that the Department of Agriculture proposed to delete the provision for publication of the contents of the press release entitled "CCC

Monthly Sales List", as a Notice in the Federal Register. No comments were received. Accordingly, 7 CFR § 1402.101 is amended to read as follows:

§ 1402.101 General.

To facilitate trade in private trade channels, the Commodity Credit Corporation will disseminate general sales offering information via press release. Since carrying charges must be incorporated in statutory minimum prices for certain commodities and since such carrying charges are conveniently accrued on a monthly basis, a Monthly Sales List will be published in press release form. The Monthly Sales List will be completely revised and republished by press release at the beginning of each month and amended as necessary during the month. The Commodity Credit Corporation reserves the right to make any amendments deleting or adding to the provisions of the Monthly Sales List or changing prices or methods of sale, including but not limited to, changes in the minimum price percentage, markups and carrying charges. These lists are issued for the purpose of public information and do not constitute an offer to sell by the Commodity Credit Corporation or an invitation for offers to purchase from the Corporation. The Monthly Sales List will set forth either the prices or the pricing basis at which commodity holdings of the Commodity Credit Corporation are available for sale for domestic unrestricted use, for export, and redemption of payment-in-kind certificates. Information concerning barter and credit will also be included. To be placed on the mailing list for the Monthly Sales List press release, applications should be made to the Director, Inventory Management Division, ASCS, USDA, Washington, D.C. 20013.

Note.— The USDA has determined that this action is not considered to be significant under the procedures and the criteria prescribed by Executive Order 12044 and as implemented by Department of Agriculture guidelines (43 FR 50988, November 1, 1978). (Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Signed at Washington, D.C. on June 20, 1979.

Bill Cherry,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-16994 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; EC-0013]

Equal Credit Opportunity; Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation.

SUMMARY: The Board is publishing the following official staff interpretation of Regulation B, regarding the National Credit Union Administration's model loan application, form NCUA 6001 (4/79). The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 202.1(d)(2)(ii). As provided by 12 CFR Part 202.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1691(b).

BILLING CODE 6210-01-M

APPLICATION FOR LOAN
(unsecured/secured closed end)

Information regarding: [] Applicant [] Additional party Date _____

Name _____ Account # _____

I/We hereby apply for a loan as follows: (** to be completed by applicant)

Amount of money requested \$ _____ **
Old loan balance (if any) \$ _____
Accrued finance charge (interest due) \$ _____
Other charges \$ _____
Total new loan \$ _____
To be repaid in ** _____ payments of \$ _____
Including/plus interest starting on _____
Purpose of loan** _____

[] Individual Credit: (Do NOT complete marital status for INDIVIDUAL credit in non-community property state.)
[] Applicant's signature only
[] Endorser, guarantor or surety (Co-signer) (Name _____)
(Have this person complete a separate loan application.)

[] Joint Credit - Joint Applicant or Co-maker (person who will be equally liable for repayment)
(Name _____)
(Have this person complete a separate loan application.)
Relationship to applicant, if any _____

[] Secured Credit - Collateral
Shares in Account Nos. _____ \$ _____
New/Used Auto - Make _____ Year _____ Cost/Value \$ _____
Other: _____
Owners' Names _____

MARITAL STATUS: Complete marital status if this loan is for:

- a. Joint or secured credit, or
b. You reside in or rely on property located in a Community Property State. (AZ, CA, ID, LA, NM, NV, TX, WA)
[] Unmarried [] Married [] Separated

Full Name _____ Birth Date _____ Social Security No. _____
Drivers Lic. No. _____ Street Address _____ Years there _____
City _____ State _____ Zip Code _____
Home Phone _____ Business Phone _____ Present Employer _____
Years there _____ Position or Title _____ Supervisor _____
Employer's Address _____
City _____ State _____ Zip Code _____
Dependents (exclude self) _____ Ages _____
Name of nearest relative not living with you _____ Relationship _____
Address _____

*Alimony, child support or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this loan.

Salary [] Gross [] Net \$ _____ Per _____
*Other Income _____ Per _____ Source _____
Is any income listed likely to be reduced before this loan is paid off? [] No [] Yes
If yes, explain _____
Share Draft or Checking Account No. _____ Where _____
Share or Savings Account No. _____ Where _____

If present residence less than 2 years, complete next 2 lines

Previous Street Address _____ Years there _____
City _____ State _____ Zip Code _____

If employed by above less than 3 years, complete next 2 lines

Previous Employer _____ Years there _____
Previous Employer's Address _____

OUTSTANDING DEBTS (List Everything)

Creditor (address and account #)	DATE LOAN	ORIG. DEBT	PRESENT BALANCE	MONTHLY PAYMENT	Past Due Yes/No
Rent					
Mortgage					
Auto loan					
Credit Union					
Credit Card					
Credit Card					
Alimony, etc.					
Other					
Other					
Attach another sheet if necessary					
TOTALS					

Are there any other persons obligated on any of the above loans? No Yes
(Which ones and who? _____)

Are you a co-maker, co-signer or guarantor on any loan? Yes No
For whom? _____ To whom? _____

Have you been declared bankrupt in the last 14 years? No Yes

Everything that I have stated in this application is correct to the best of my knowledge. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Signature of Member _____ Date _____

CREDIT COMMITTEE/LOAN OFFICER ACTION

Loan officer:

- I approve the loan as submitted.
- Loan referred to CC. Reason _____

LO signature _____ Date _____

Credit Committee: Date _____

- We approve the loan as submitted.
- We reject the loan as submitted.
- The following counter offer will be made to the applicant and if accepted, we approve the loan. Describe _____

Specific reason(s) for rejection _____

Outside information considered No Yes, (describe _____)

Signed _____ Date _____

Signed _____ Date _____

Signed _____ Date _____

ECOA notice and Reason for Rejection sent or delivered on _____

Signed _____

June 8, 1979.

You ask us in your letter of * * *, to approve the National Credit Union Administration's model loan application, form NCUA 6001 (4/79), for compliance with Regulation B.

We have examined the model application (a copy of which is enclosed), and, in our opinion, it fully complies with §§ 202.5 (c) and (d) of Regulation B. We therefore believe that a credit union that properly uses the application also complies with those provisions of the regulation. We would point out that any credit union that accepts a credit application relating to the purchase of residential real property, where the credit is to be secured by the property, must solicit from the applicant or applicants information for monitoring purposes as provided in § 202.13.

As you have requested, this is an official staff interpretation of Regulation B. It will become effective 30 days after publication in the Federal Register unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended.

Very truly yours,

Nathaniel E. Butler,
Associate Director.

Board of Governors of the Federal Reserve System, June 19, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-20125 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

12 CFR Part 211

[Regulation K; Docket No. R-0204]

International Banking Operations; Final Rule; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final regulation: Correction.

SUMMARY: This notice corrects a previous Federal Register document (FR Doc. 79-19185) beginning at page 36005 of the issue for Wednesday, June 20, 1979.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Jr., Senior Attorney, Legal Division (202-452-3269), Board of Governors of the Federal Reserve System.

On page 36012 in the center column, paragraphs (e)(2) and (e)(3) should read as follows:

(2) Extensions of credit in excess of the limitations of section 211.6(b) that were outstanding on June 8, 1979, may remain outstanding until the date of maturity.

(3) Edge Corporations whose accounts or investments do not conform to section 211.6(d) or 211.5(b) of this Part on June

14, 1979, shall conform such accounts and investments by June 14, 1981.

Board of Governors of the Federal Reserve System, June 22, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-20101 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

12 CFR Part 226

[Reg. Z; FC-0163]

Truth in Lending; Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation.

SUMMARY: The Board is publishing the following official staff interpretation of Regulation Z, regarding proper methods of disclosure of mechanical breakdown protection plan offered or required with open and closed end vehicle leases. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1640(b).
§§ 226.2(rr) and 226.15(b)(15) Cost of "capitalized" mechanical breakdown

protection plan must be included in total lease obligation as part of the total of basic monthly payments.

§§ 226.15(b), 226.1501 and 226.1502 Proper methods of disclosure of mechanical breakdown protection plan offered or required with open and closed end vehicle leases.

June 13, 1979.

You ask in your * * * letter for an official staff interpretation of § 226.15 of Regulation Z involving the proper method of disclosure of charges for mechanical breakdown protection contracts made in connection with consumer vehicle leases. As you have requested, this is an official staff interpretation of Regulation Z. It is limited to the facts and issues discussed herein. It will become effective 30 days after publication in the Federal Register unless a request for public comment, made in accordance with the Board's procedure, is received and granted. We will notify you if the effective date of the interpretation is suspended.

You represent a lessor that intends to engage in open and closed end lease transactions which may involve the purchase by the lessee of mechanical breakdown protection contracts ("MBP contracts") covering the leased vehicles. An MBP contract is one in which the dealer participating in the lease agrees to repair, or to arrange for the repair of, specified mechanical breakdowns if they occur to the leased vehicle. Some States treat such contracts as insurance, while others, the majority, do not.

In the case of a used vehicle lease transaction, your client intends to require the lessee to procure an MBP contract that provides for certain basic coverages. In the case of a new vehicle lease, the lessee will not be required to procure such a contract but will have the option to do so. In either case, the lessee may purchase the MBP contract from any responsible party. If the lessee chooses to purchase an MBP contract from the dealer, it can be purchased for cash or capitalized (i.e., the premium is paid in installments over the term of the lease and a lease charge is assessed on the amount of the premium).

Initially, you are concerned whether credit sale or leasing disclosures under Regulation Z must be made by your client for the purchase of an MBP contract. The staff believes that where the purchase of an MBP contract is in fact incidental to a consumer lease transaction, it would be appropriate to disclose the terms of such a contract in accordance with § 226.15 of the regulation.

Your next questions deal with how the appropriate leasing disclosures are to be made. One threshold issue is whether MBP contracts should be treated as insurance for disclosure purposes under § 226.15. The staff believes that this issue can only be resolved by reference to State law. In States where the contracts are regarded as insurance, therefore, the disclosures required by § 226.15(b)(8) should be made. In the plan you describe, where the MBP contract may or may not be required, depending on the type of vehicle leased, there will be two different results under that paragraph. If the

"insurance" is provided by the lessor, whether or not it is required, disclosures must be made under § 226.15(b)(6)(ii). If it is required, but not provided, by the lessor, disclosures under § 226.15(b)(6)(i) must be given. If the MBP contract is neither required nor provided by the lessor, however, no disclosure under § 226.15(b)(6) is required.

In those States that do not treat MBP contracts as insurance, the § 226.15(b)(6) disclosures need not be made; however, your client may disclose the terms as additional information under § 226.6(c), so long as such disclosures are written and placed in a manner that does not confuse or distract attention from required disclosures.

You ask how to disclose the price of the contract (1) when it will be purchased for cash, and (2) when it will be capitalized. If the contract is going to be purchased for cash, the applicable disclosure is, as you suggest, § 226.15(b)(2) in every case. As an example of how this disclosure would work, in the model Open End or Finance Vehicle Lease Disclosure Statement (Interpretation § 226.1501), the cost to a lessee of an MBP contract purchased for cash in connection with an open end vehicle lease should be disclosed as part of Item 3(b), Other Charges Payable at Inception, and, where the contract qualifies as insurance, under Item 9 as well. Item 3(b) is applicable instead of 3(a) because, when purchased for cash, the MBP contract is not part of the Total Lease Obligation (TLO).

If the same MBP contract is capitalized in connection with an open end vehicle lease, a different set of disclosures is required, in part. Although the rule remains the same with respect to the insurance disclosures under § 226.15(b)(6), § 226.15(b)(2) is inapplicable since there is no initial payment involved. In its place, the lessor must disclose the premium as part of the periodic payment under § 226.15(b)(3).

In the model open end disclosure statement these figures should be reflected in Item 4(a), Basic Monthly Payment, and Item 6, Total of Basic Monthly Payments. Item 4(a) is indicated instead of 4(b) because the price of the capitalized MBP contract would be part of the TLO, under § 226.2(rr)(1). Although the material published in the Federal Register with the consumer leasing amendments to Regulation Z stated that charges for maintenance and insurance should be excluded from the TLO even though they form part of the periodic payments (41 FR 45538, Oct. 15, 1978), on reconsideration of this issue the staff believes that capitalized charges for MBP contracts must be included in the TLO calculation if the Congressional intent concerning the disclosure required by § 226.15(b)(15)(i) is to be implemented. As was stated in an earlier letter, FC-0150, Congress wished to ensure that " * * * the lessee would have a readily understandable method of comparison of the cost of one lease with another or with the cost of buying the same property for cash or on credit." In order to carry this policy into effect, it is necessary to include the cost of the MBP contract in the TLO where that cost is capitalized. Included in this disclosure should be any lease charge

that accrues on the premium amount over the term of the lease.

For closed end transactions, the disclosure requirements of Regulation Z with respect to MBP contracts are much the same as those indicated above, except that § 226.15(b)(15) does not apply. Thus, where the contract is purchased for cash at consummation, § 226.15(b)(2) applies, and where it is capitalized, the disclosure required by § 226.15(b)(3) should be made. Sections 226.15(b)(6) or 226.6(c) may also apply with respect to insurance, as discussed above.

As an example, in the model Closed End or Net Vehicle Lease Disclosure Statement contained in Interpretation § 226.1502, where the MBP contract is not capitalized, the cash payment would be included and identified in Item 3, whether it is required or optional. If the contract is treated as insurance under State law, the disclosures in Item 9 should also be made. Where the MBP contract is capitalized, disclosure should be made in Items 4, 5, and 6. (See Interpretation § 226.1502 and accompanying Instructions.)

If you have any further questions about this letter, please let me know. If you have other questions in the future, you may also address them to Mr. W. Gordon Smith, Credit and Consumer Affairs Officer, Federal Reserve Bank of San Francisco, San Francisco, California 94120.

Very truly yours,

Nathaniel E. Butler,
Associate Director.

Board of Governors of the Federal Reserve System, June 19, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-20128 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance (1950-)— Coverage of Employees of State and Local Governments; Annual Wage Reporting

AGENCY: Social Security Administration,
HEW.

ACTION: Final rule.

SUMMARY: The attached amendments require that States and interstate instrumentalities (which are treated as States to the extent practicable) report their covered employees' wages to the Social Security Administration (SSA) on an annual basis rather than quarterly. This change will be effective January 1, 1981. Legislation required employers in the private sector to begin reporting on an annual basis beginning with wages

paid in 1978. Placing the States under a similar reporting system will reduce SSA's administrative costs incurred in maintaining a separate quarterly reporting system for the States.

EFFECTIVE DATE: January 1, 1981.

Legislation (section 7 of Pub. L. 94-202) requires that a rule affecting State wage reports shall not become effective until at least 18 months after it is published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Mr. Armand Esposito, Legal Assistant, Office of Policy and Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7455.

SUPPLEMENTARY INFORMATION: Since 1951, States have been able to enter into voluntary agreements (42 U.S.C. 418) by which social security coverage would be provided for the services of State and local government employees. Under these agreements the States agree to comply with all Department of Health, Education, and Welfare regulations which the Secretary may prescribe to implement Section 218 of the Social Security Act (Act) (42 U.S.C. 418). Present regulations require that States report the covered wages of State employees and employees of their political subdivisions on a quarterly basis. These amendments would change this to an annual basis.

When Congress mandated a change from quarterly to annual reporting for private employers, it neither mandated nor ruled out a similar change for the States. Rather, it appears that Congress wanted to avoid any abrupt changes in the States' reporting procedures and insure that the annual reporting procedures would not take effect automatically for State local governments as it did for the private sector. To ease the transition in reporting procedures for State and political subdivisions, section 7 of Pub. L. 94-202 requires that we publish final regulations at least 18 months before any change in those procedures can become effective. Accordingly, the proposed amendments will become effective January 1, 1981.

Economy in Federal Government operations dictates that, to the extent possible, all employers use a uniform reporting method. State and political subdivision employees comprise about 10 percent of the 100 million workers for whom we receive wage reports. There are about 64,000 reporting entities among the 50 States, Puerto Rico, and the Virgin Islands and about 60 interstate instrumentalities. (Interstate instrumentalities are treated as States to

the extent practicable.) Maintaining two computer systems and procedures (for private and public employers) and other attendant items increases SSA's administrative costs. We believe this shift to annual reporting will save SSA 2.6 million dollars for fiscal year 1981 and 5.3 million dollars annually thereafter and States, particularly those having large staffs processing these reports, should also have savings.

Publication of Notice of Proposed Rulemaking

On August 9, 1978, we published a Notice of Proposed Rulemaking (NPRM) in the Federal Register (43 FR 35344) proposing that States and interstate instrumentalities report their covered employees' wages to the Social Security Administration on an annual basis rather than quarterly. These wage reports would be due February 28 of each year. The NPRM also proposed that States be permitted to utilize magnetic tape or other appropriate media to make their wage reports. Because several persons requested an extension of the 60-day comment period, we extended it until December 11, 1978 (43 FR 50700, 10/31/78).

Reaction to the Proposal

We received 56 letters commenting on the Notice of Proposed Rulemaking. Forty-eight letters were from the State OASI Administrator and local government entities in the State of Washington. Of the remaining eight letters: (1) One was from the National Conference of State Social Security Administrators; (2) four were from State Social Security Administrators, and (3) three were from separate towns. The major issues raised by the commenters and our response to them are as follows:

1. Form W-2 Not a Viable Reporting Medium for the States

Comment. On behalf of its members, the National Conference of State Social Security Administrators said that the States do not consider the form W-2 a "viable reporting medium for public employers". (Private sector employers report wages annually on form W-2). The commenter indicated that, while they are liable for the contributions for all political subdivisions, the States do not control the preparation and distribution of forms W-2 for local governmental entities. Some States also commented that they do not centrally process forms W-2 and do not have the capability to do so, thus they could not continue to report on magnetic tape. It was also stated that, by using the form W-2 as the reporting medium, the States

would have to handle forms for noncovered, as well as covered, employees. The States indicated this would significantly increase their workload and expense.

Response. These final regulations do not specify the form to be used for reporting wages (see § 404.1254). Due to Pub. L. 94-202, if we specify a particular form in these regulations, 18 months' notice would be required before we could use another form even if both the States and SSA agree to it. We will confer with the States on developing the wage reporting form which will be used. We will then notify the States of the form to be used and will include information on the wage reporting form in the Social Security Claims Manual and the Handbook for State Social Security Administrators. We will also discuss with the States and other issues or administrative problems which need resolving in order to establish a viable wage reporting system. We are confident such a system can be achieved and maintained.

2. Confidentiality Problems for States.

Comment. The States commented that forms W-2 contain information that should not be available to State social security agencies and their personnel because it is not pertinent to the social security report or the operation of the social security agencies.

Response. While form W-2 has not been specified as the wage reporting vehicle, we agree this observation is pertinent to any form the States will use to report wages. If there is a confidentiality problem under Federal law, we will consider the problem in determining the form to be used as a reporting vehicle.

3. Quarterly Reports Still Needed

Comment. The States commented that even with annual wage reporting they would still need quarterly wage data for other purposes, e.g., retirement systems and unemployment compensation. Also, some States currently use their quarterly social security wage report for unemployment compensation purposes.

Response. The problem of furnishing quarterly wage data to one agency and annual data to another is not unique to State and local governments; it also exists in the private sector. The fact that a State is reporting quarterly elsewhere doesn't mean that less frequent reporting to SSA will increase that State's burden. Rather, while there will be some initial start-up costs, we expect that, on balance, annual reporting will reduce the States' burden and costs, while SSA will be able to eliminate its

need for two systems for processing social security wage data received from the public and the private sector.

4. More Frequent Wage Adjustments

Comment. The States also commented that:

(a) They expect the number of wage adjustments to increase under annual wage reporting;

(b) Incorrect wage reporting would not be detected until the end of the year;

(c) It would be more difficult for them to make the necessary adjustments when reporting officials have changed; and

(d) It would be more difficult to correct mistakes in the name or social security number at the end of the year because individuals could not be located as readily.

Response. Beginning July 1, 1980 the States will be paying their social security contributions monthly (43 FR 54083, November 20, 1978). To ensure they pay only what is due, we would expect the States to keep on an ongoing basis accurate employee wage records for all covered groups. If this is done, there should be no increase in wage adjustments or difficulty in detecting wage errors. Problems due to turnover of officials or location of individuals would therefore be minimized. Since these regulations would require only an annual wage report the States or governmental entities should have more time to correct any mistakes they do make on the wage reports submitted to SSA. In addition, where States report quarterly for other programs this should allow them to correct wages easily.

5. Annual Reporting Complicates More Frequent Deposits

Comment. The States commented that annual reporting would complicate their ability to validate more frequent deposits. They would be required to give SSA a detailed report of wages only once a year instead of four times a year as under current regulations. They feel that the accelerated deposit schedule for the first two months of the quarter in itself will cause more errors in deposits.

Response. Although annual wage reports will be required beginning with 1981, we would expect the States to continue verifying their contributions each quarter with the total wages paid for that quarter to ensure they pay the correct amount. Where a State makes quarterly wage reports for other programs, this problem should be small. Under more frequent deposits, the States have 45 days to pay the contributions due for the last month of each quarter. At that time, the States could validate

the deposits made monthly and report any differences with the quarterly summary wage data required by SSA. Further, the deposits made monthly should be based on payroll certification, and therefore, be substantially accurate.

6. Additional Costs Incurred

Comment. The States also object to annual wage reporting because they will have to make systems changes, hire employees on a seasonal basis, and provide training on the new requirements. In addition, the States question whether the savings to the Federal Government will be significant and whether there will be a true savings to the public if State and local government costs increase.

Response. We agree there may be some initial costs to the States because of the systems changes and training needs. However, we do not believe there will be a significant cost increase once the system is implemented. However, we do anticipate significant savings for the Federal Government. Also the change in frequency of deposits may enable the States to use any affected personnel for those duties.

7. Due Date Established Does Not Give States Enough Time

Comment. The regulation established February 28 of each year as the due date for filing the required wage reports for the previous year. The States say this does not give them enough time to prepare and validate the wage reports prior to submittal. They indicate that, since few employees reach the maximum covered wages before the end of the year, there is no opportunity to prepare at least part of the report before then. In addition, the States commented that, because other forms are also due at the end of the year, they need more time to file the annual wage report.

Response. Since the types and volumes of year end reports may vary from State-to-State, this problem will affect some States more than others. However, the due date is a month after the States and their political subdivisions are required to give their employees a form W-2. This should be sufficient time for the States to gather this already compiled information and submit their annual wage report.

8. Current Wage Information Not Available

Comment. Some States commented that, under annual wage reporting, current wage information will not be available when an individual files for benefits. The States feel, as a result, either the individual will receive a lower

benefit or more employer contacts will be needed to secure current wage information.

Response. While it is true that, under annual wage reporting, some wages will not be credited as early as under the quarterly wage reporting system, the total wages for the year will be credited sooner. Beginning with calendar year 1980, we expect to have the earnings record updated by October of the year in which the report is filed. This is several months sooner than a report for the last quarter of each year is credited under the quarterly wage reporting system. In addition, we can use the individual's form W-2 to establish wages for computing benefits and determining insured status. Where an employer contact is necessary, it will be necessary to examine only one annual record instead of four quarterly records. Finally, we will automatically recompute an individual's benefit to include any late posted earnings which would increase the benefit amount, and pay such benefits retroactively. We believe, therefore, that delayed wage postings will not result in significant problems. Also, our procedures will be geared to handling annual reports as mandated by Congress for private employers and their employees. These regulations will enable us to process wage information for public and private sector employees in the same manner, and thereby increase our efficiency in this important area.

9. Delay Implementation of Annual Wage Reporting

Comment. The States commented that, since social security coverage of State and local employees is provided by agreement between the States and the Federal Government, both parties to the agreement should agree to any changes. Some felt that it is improper for SSA to make changes in the States' reporting requirements while a study of universal coverage is underway. It was also suggested that experience should be gained with annual reporting in the private sector before the States' quarterly wage report system is changed.

Response. Although coverage of State and local governmental employees is provided by agreement, under the terms of the agreement and in accordance with section 218(e) of the Act, the States agree to comply with rules and regulations relating to reports as prescribed by the Secretary. The Social Security Amendments of 1977 provided for a mandatory study of universal social security coverage for State and local employees. Reports and

recommendations to the President and Congress are due by the end of 1979. We do not agree that publication of this regulation should be delayed until then since annual reporting is completely separable from universal coverage. Meanwhile, regulations which change the States' reporting requirements must be published in final at least 18 months before the change can become effective. Further, annual wage reporting would not go into effect for the States until 1981. By that time, we will have had 3 years of experience with annual wage reporting in the private sector. Sharing this experience with the States should ease their conversion to annual reporting.

Changes to Regulations

We have made several editorial changes which do not affect the intent of the changed section. We are changing § 404.1255a(c)(2)(ii) which was published in the Notice of Proposed Rulemaking to show when contributions must be paid in the year of execution of an agreement or modification of an agreement. This change conforms the language of this paragraph to that published with the frequency of deposit regulations published in final form on November 20, 1978. We have modified § 404.1255a(c)(2) to reflect where the rules for filing wage reports and contribution returns during the period July 1, 1980 through December 31, 1980 may be found. These rules were published with the frequency of deposit regulations. We are also modifying § 404.1255a(c)(2)(iii) to require a State or interstate instrumentality to submit a contribution return whenever it pays its contributions. On the return for the third month in the quarter, the State or interstate instrumentality shall also furnish the total of all covered wages, along with the total of all contributions, paid that quarter. This will help us determine whether a State or interstate instrumentality has paid the correct amount of contributions. We have modified the language in § 404.1255a(c)(3) through (6) to conform it with the versions published as part of the frequency of deposit regulations.

Accordingly, these rules are adopted as set forth below.

(Secs. 205, 218, and 1102 of the Social Security Act; 53 Stat. 1362, 64 Stat. 514, and 49 Stat. 647 (42 U.S.C. 405, 405a, 418, and 1302).)

(Catalogue of Federal Domestic Assistance Program Nos. 13.802-13.805—Social Security programs)

Dated: June 15, 1979.

Stanford G. Ross,
Commissioner of Social Security.

Approved: June 22, 1979.

Hale Champion,
Acting Secretary of Health, Education, and
Welfare.

**PART 404—FEDERAL OLD-AGE,
SURVIVORS, AND DISABILITY
INSURANCE (1950-)**

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

§ 404.1230 [Amended]

1. Section 404.1230 is amended by changing the parenthetical cross-reference after the last sentence from "See § 404.1250(b) * * *" to "See § 404.1250a * * *."

2. Section 404.1250 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 404.1250 Wage reports and contribution returns in general.

(a) *Wage reports.* Each State shall report, by coverage group, the wages paid each covered employee included in its agreement until it files the final report as required by § 404.1252. The State shall report the wages paid for covered services during an entire calendar year. The State shall also submit along with the wage report the original of a recapitulation report identifying each political subdivision by its assigned number and, where appropriate, each coverage group by its assigned number and payroll record unit number.

(b) *Wage reports of remuneration for agricultural labor subject to \$150 wage limitation.* A State may exclude from its agreement any services the remuneration for which would not be wages under section 209(h)(2) of the act. If it does so, the State shall identify in the wage report and on any report of adjustments the individuals affected and the amount of remuneration paid to each individual which was subject to the \$150 limitation.

(c) *Contribution returns.* The State shall forward the original of the contribution return in accordance with § 404.1255a(c). Contribution payments shall be made in accordance with § 404.1223.

3. Section 404.1250a is revised to read as follows:

§ 404.1250a Wage reports for employees performing services in more than one coverage group.

(a) *Employee of state in more than one coverage group.* Where an individual is a State employee in more than one coverage group, the aggregate wages paid the employee shall be reported for only one coverage group. The wages reported for each employee shall not exceed the annual wage limitations in § 404.1027.

(b) *Employee of political subdivision in more than one coverage group.* Where an individual is an employee of a political subdivision in more than one coverage group, the aggregate wages paid the employee shall be reported for only one coverage group. The wages reported for each employee shall not exceed the annual wage limitations in § 404.1027.

(c) *Employee of state and of one or more political subdivisions.* Where an individual performs covered services as an employee of the State and as an employee of one or more political subdivisions and the State agreement does not provide for the computation of contributions under section 218(e)(2) of the act, the State and each political subdivision shall report the amount of covered wages it paid the employee up to the annual wage limitations in § 404.1027.

(d) *Employee of more than one political subdivision.* Where an individual performs covered services as an employee of more than one political subdivision and the State agreement does not provide for the computation of contributions under section 218(e)(2) of the act, each political subdivision shall report the covered wages it paid the employee up to the annual wage limitations in § 404.1027.

(e) *Employees performing services for more than one political entity, section 218(e)(2) of the act applicable.* Where an agreement provides for the computation of contributions for any calendar year in accordance with section 218(e)(2) of the act, the State will compute the total amount of wages it and/or all political subdivisions paid the employee which are subject to section 218(e)(2) of the act. It will then report the amount of wages paid but not in excess of the annual wage limitations in § 404.1027. In effect the employee is treated as having had only one employer. If the employee also had wages not subject to section 218(e)(2) of the act, those wages must be reported separately.

4. In § 404.1250b, paragraphs (c) and (d) are revised to read as follows:

§ 404.1250b Filing of single wage report where individual is jointly employed by more than one employer.

(c) The agent files for each reporting period a wage report, which includes the total wages paid to each individual, except that the amount of wages each employer reports for each employee shall not exceed the annual wage limitations listed in § 404.1027. (For provisions relating to the furnishing of wage statements to employees, see § 404.1230.)

(d) The agent includes in the wage report: the agent's name, address, and identification number; and the name and identification number of each employing entity.

5. Section 404.1251 is revised to read as follows:

§ 404.1251 Period covered by each wage report.

(a) *For periods prior to 1981.* The State shall report the wages for the calendar quarter in which they were actually paid. If the wages were constructively paid in a prior calendar quarter, the wages shall be reported for the prior quarter (see § 404.1026(b) relating to constructive payment of wages).

(b) *For periods after 1980.* The State shall report the wages for the calendar year in which they were actually paid. If the wages were constructively paid in a prior calendar year, the wages shall be reported for the prior year (see § 404.1026(b) relating to constructive payment of wages).

6. Section 404.1252(a) is revised to read as follows:

§ 404.1252 Final reports.

(a) *Termination of entire agreement.* A final report can be filed only by a State whose agreement with the Secretary has been terminated. That report shall cover each coverage group which was included in the terminated agreement. It shall:

- (1) Be marked "final report;"
- (2) Cover the period during which the final payment of wages subject to the agreement is made; and
- (3) Indicate the last date wages were paid.

Along with the final report, the State shall submit a statement showing the title and business address of the State official responsible for keeping the State's records, and of each State and local official responsible for the records for the periods covered by the agreement. The State shall also submit a recapitulation report identifying each political subdivision by its assigned number and, where applicable, each

coverage group by its assigned number and payroll record unit number.

* * * * *

7. Section 404.1254 is revised to read as follows:

§ 404.1254 Use of prescribed forms.

(a) *Description and availability of prescribed forms.* SSA will generally furnish the forms to be used in making each report required by this Subpart M. However, the fact SSA did not furnish a form will not excuse a State from making the required report. If the State has not received the prescribed forms in ample time to prepare and file them, they should request the necessary forms from SSA. (See §§ 404.1255 and 404.1255a relating to the place and time for filing returns and reports; see § 404.1252 relating to final reports).

(b) *Compliance with instructions.* Each wage report and contribution return shall be submitted in accordance with current administrative instructions and regulations. (See § 404.1255a regarding the time and place for filing returns and reports and § 404.1256 (c) and (e) relating to copies of returns, reports, schedules, and statements, and to the place and period for keeping records.) Reports and returns which have not been prepared in accordance with those instructions and regulations will not be accepted.

(c) *Only States can submit wage reports.* A State shall file only one wage report for the State and its political subdivisions. Any supplemental, adjustment, or correctional wage report filed shall constitute a part of the State's wage report. Political subdivisions of a State may not file individual wage reports with SSA, but must forward these to the State for consolidation.

(d) *Correction of errors.* If a State fails to report or incorrectly reports the wages of an employee, the State shall submit an adjustment report. The adjustment report must be completed and submitted to the SSA in accordance with current administrative instructions and regulations (see §§ 404.1260-404.1262).

(e) *Permission to report on magnetic tape or other media.* After approval by SSA, magnetic tape or other media may be substituted for any form prescribed for making a report or reporting information.

8. Section 404.1255a is amended by deleting paragraph (d) and revising paragraph (c) to read as follows:

§ 404.1255a Place and time for filing contribution returns, wage reports, and making deposits of contributions—for months on or after January 1, 1981

* * * * *

(c) *Contribution returns and wage reports—(1) Where to be filed.*—All contribution returns, wage reports, and adjustment reports shall be filed with the SSA.

(2) *When to be filed.* (For the rules in effect during the period July 1, 1980 through December 31, 1980 see 43 FR 54087, November 20, 1978.) (i) *For years prior to execution of agreement or modification.*—If an agreement or modification provides for the coverage of employees prior to the year of execution of the agreement or modification, any contributions due shall be paid and contribution returns or wage reports filed within 90 days of the date of execution of the agreement or modification.

(ii) *For year of execution of agreement or modification.* If the agreement or modification provides for the coverage of employees for the year of execution of the agreement or modification, the State or interstate instrumentality shall, for the calendar quarter in which the Secretary signs the agreement or modification, or any of the following four calendar quarters, pay any contributions due and file the contribution returns for each of those calendar quarters on or before the last day of the second month of the next calendar quarter. However, if paragraph (c)(2)(i) of this section permits additional time, that paragraph applies. The State or interstate instrumentality shall file wage reports for such year by February 28 of the year following the date of execution or within 90 days of the date of execution, whichever is later.

(iii) *For years after execution of agreement or modification.* When it pays its contributions under paragraph (a) of this section, the State or interstate instrumentality shall also file a contribution return. The contribution return for the third month in a quarter shall summarize the wage and contribution data for that quarter. No annual contribution return is required. The State or interstate instrumentality shall file the wage report for any calendar year after the year of execution of the agreement or modification by February 28 of the following calendar year.

(3) *Good Cause.* For good cause shown, the Secretary may allow a State or an interstate instrumentality additional time to file a contribution return and wage report. (Interest will be assessed for failure to pay contributions

within the prescribed time period. See § 404.1225).

(4) *Consolidated report incomplete.* If the responsible State official has not received a wage report for the State or any of its political subdivisions in time to file a consolidated wage report by the due date, the State official shall indicate on the recapitulation report each political subdivision, coverage group or payroll unit which has not submitted a wage report. Upon receipt of the delinquent wage report, the State official shall send it to the SSA and shall deposit in the Federal Reserve Bank, or one of its branches, any contributions payable on the additional wages reported. Interest will be assessed on those delinquencies (see § 404.1226).

(5) *Due date is a Federal non-workday.* If the last day for paying contributions or filing any wage reports or contribution returns falls on a Federal non-workday, the contributions may be paid and the contribution return or wage report filed on the next business day.

(6) *Mailed reports and deposits.* If mailed, the contribution return or wage report shall be posted in time to reach the SSA under ordinary handling of the mails by the due date. If the deposit is mailed, it shall be posted in time to reach the appropriate Federal Reserve Bank under ordinary handling of the mails by the due date.

§ 404.1261 [Amended]

9. Section 404.1261 is amended by deleting the word "quarterly" wherever it appears in paragraph (a)(1), by changing the cross-reference in paragraph (a)(1) from "§ 404.1250(a)(3)" to "§ 404.1250(c)," by changing the words "calendar quarter" in the second sentence of paragraph (a)(2) to "reporting period."

§ 404.1262 [Amended]

10. Section 404.1262 is amended as follows: In paragraph (a), by changing the word "quarterly" wherever it appears to "reporting period"; in paragraph (b)(1) by changing the word "quarters" to "years," and by changing the term "quarter or quarters" wherever it appears to "reporting period"; in paragraph (c)(1) by changing the word "calendar quarters" in the second sentence to "reporting periods."

§ 404.1263 [Amended]

11. Section 404.1263(c) is amended by changing the term "calendar quarter" to "reporting period" wherever it appears, and by deleting the last sentence.

§ 404.1281 [Amended]

12. Section 404.1281 is amended by changing the word "quarters" wherever it appears in paragraphs (a) and (b) to "years."

§ 404.1282 [Amended]

13. Paragraph (b) in § 404.1282 is amended by changing the word "quarter" to "years."

14. Section 404.1285 is amended as follows: by changing the word "quarters" in the first sentence of paragraph (b) to "years"; by revising paragraph (c)(1) as follows; and by revising the punctuation in paragraph (c)(3), and by deleting paragraph (c)(4).

§ 404.1285 Time limitations on credits or refunds.

* * * * *

(c) *Periods of limitation.* * * *

(1) 3 years, 3 months, and 15 days after the year in which the questioned wages were paid or alleged to have been paid; or

(2) 3 years after the due date of the payment which included the overpayment; or

(3) 2 years after the overpayment was made to the Secretary of the Treasury.

[FR Doc. 79-19938 Filed 6-27-79; 8:45 am]
BILLING CODE 4110-07-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

Visitors' Rules for the Arlington National Cemetery

AGENCY: Department of the Army.
ACTION: Final rule.

SUMMARY: This amendment establishes a 2-hour parking limitation on parking of vehicles in the Arlington National Cemetery parking lot. This restriction is necessary to insure adequate parking space for bona fide visitors to the cemetery.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT: Helen S. Perry (Area Code 202-693-0876), or write HQDA (DAAG-PED-C) Wash DC 20314.

SUPPLEMENTARY INFORMATION: On July 8, 1968, the Administrator of General Services delegated to the Secretary of Defense (with authority to redelegate to any officer or employee of the Department of Defense) the power to appoint uniformed guards as special policemen and to make needful rules and regulations for Arlington National

Cemetery (Fed. Prop. Man. Reg. D-9, 33 FR 10035). On July 16, 1968, all authority vested in the Secretary of Defense, by delegation from GSA, was redelegated to the Secretary of the Army. The regulatory authority of the GSA delegation was used to promulgate the current Arlington Visitors' Rules. On January 13, 1978, the Army published a proposed rule for public comment on a 2-hour parking limitation for Arlington National Cemetery. At the same time, the 2-hour parking limitation was imposed without benefit of public comment because many vehicles remained parked in the lot from early morning through most of the day. The prolonged parking interfered with the parking of bona fide visitors to the cemetery. However, public views and comments were desired and a proposed rule (32 CFR 553) was published in the Federal Register issue of January 23, 1978 (43 FR 3139) requesting public comments. No comments were received.

Accordingly, 32 CFR § 553.22 is amended by adding a reference to paragraph (g) in the 14th line of section 553.22(b) and by adding a new paragraph (g) to the section as follows:

§ 553.22 Visitors' Rules for the Arlington National Cemetery.

(a) * * *

(b) Scope * * * in paragraphs (c), (d), (e), (f), and (g) of * * *

(g) Parking limitation. There is a 2-hour parking limit in the Visitors' Center Parking Lot at Arlington National Cemetery, and it is unlawful for vehicles to remain in the parking lot beyond the 2-hour limit.

(24 U.S.C. Ch. 7)

By authority of the Secretary of the Army:
Dated: June 22, 1979.
Ellsworth S. Clarke,
Acting Director, Personal Affairs TAGCEN.
[FR Doc. 79-20010 Filed 6-27-79; 8:45 am]
BILLING CODE 3710-08-M

32 CFR Part 564

[NGR 40-3]

National Guard Regulations

AGENCY: Department of the Army, DOD.
ACTION: Final rule correction.

SUMMARY: The Department of the Army is correcting Section 564.37, Medical Care rule for National Guard members, appearing in FR Doc 79-8203 at page 16385 in the Federal Register issue of March 19, 1979, by adding the authority

citation in the first column after the signature block to read as follows: (32 U.S.C., 318 through 320 and 502 through 505)

EFFECTIVE DATE: June 20, 1979.

FOR FURTHER INFORMATION CONTACT: Warrant Officer Harlow W. Paul (202) 695-3084 or write: HQDA (NGB-ARS), Washington, DC 21310.

Dated: June 20, 1979.

Robert H. Neitz,
Colonel, USAF Executive, National Guard Bureau.

[FR Doc. 79-20011 Filed 6-27-79; 8:45 am]
BILLING CODE 3710-06-M

Department of the Navy

32 CFR Part 765

Rules Applicable to the Public; Amendment

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending 32 CFR Part 765, relating to miscellaneous rules affecting the public, to reflect a change to underlying regulations that now provide for a distinctive patch to be worn by participants in United States Marine Corps Junior ROTC programs. This amendment describes the patch and the manner in which it is to be worn. The purpose of this amendment is to apprise members of the public of current regulations concerning insignia to be worn by persons not in the naval service.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Gerald J. Kirkpatrick, JAGC, U.S. Navy, Administrative Law Division, Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370, Telephone number (202) 694-5267.

Pursuant to the authority contained in 5 U.S.C. section 301, the Department of the Navy is amending 32 CFR Part 765 by revising paragraph (d) of § 765.13. This paragraph is being revised to reflect a change to underlying regulations that now provide for a distinctive patch to be worn by persons participating in the United States Marine Corps Junior ROTC program. The revision describes the new patch and the manner in which it is to be worn. This revision relates to internal management of the United States Marine Corps Junior ROTC program. It has been determined that invitation for public

comment on his amendment prior to adoption would be impractical, unnecessary, and contrary to the public interest and is thus not required under the rulemaking provisions in Parts 296 and 701 of 32 CFR.

Accordingly, 32 CFR Part 765 is amended as follows:

Paragraph (d) of § 765.13 is revised as follows:

§ 765.13 [Amended]

* * * * *

(d) Accordingly, except as otherwise provided in this paragraph, the following mark is hereby designated to be worn by all persons wearing the Navy or Marine Corps uniform as provided in paragraphs (a), (b), and (c) of this section: A diamond, 3½ inches long in the vertical axis, and 2 inches wide in the horizontal axis, of any cloth material, white on blue clothing, forestry green on khaki clothing, and blue on white clothing. The figure shall be worn on all outer clothing on the right sleeve, at the point of the shoulder, the upper tip of the diamond to be one-fourth inch below the shoulder seam. For persons who are participating in United States Marine Corps Junior ROTC programs, the following mark is designated to be worn: A round patch, three inches in diameter, which contains a gold Marine Corps emblem centered on a scarlet field. The scarlet field is surrounded with a blue border containing the words "United States Marine Corps Junior ROTC" in white lettering. Surrounding the blue field will be a gold border. Unless otherwise directed, the patch will be worn in the manner described above in connection with the "diamond" insignia.

(10 U.S.C. 773).

Dated: June 22, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-20088 Filed 6-27-79; 8:45 am]

BILLING CODE 3810-71-M

Corps of Engineers

33 CFR Part 207

Navigation Regulations; Puget Sound Area, Washington

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending regulations to enlarge a restricted area in the waters adjacent to

Puget Sound Naval Shipyard, Bremerton, Washington. The enlarged restricted area will provide additional security for the shipyard and berthed inactive ships and safe navigation in the area.

DATE: Effective on July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard (202) 693-5070 or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, ATTN: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: This proposed revision was published in the Federal Register (43 FR 31164) with the comment period expiring on 21 August 1978. We received one comment from the National Ocean Survey concerning the reversal of longitude and latitude designations and recommending that the boundary line for Area No. 1 be changed to terminate on the shoreline rather than at the Annapolis Ferry Landing. We have incorporated the changes and pursuant to the provisions of Section 7 of the River and Harbor Act approved 8 August 1917, (40 Stat. 266; (33 U.S.C. 1)) the regulations in 33 CFR 207.750(k) are amended as set forth below:

§ 207.750 Puget Sound Area, Washington.

* * * * *

(k) *Sinclair Inlet; naval restricted areas.* (1) Area No. 1. All the waters of Sinclair Inlet westerly of a line drawn from the Bremerton Ferry Landing (approximately latitude 47°33'49" N., longitude 122°37'19" W.) southeasterly to the shoreline at latitude 47°32'53" N., longitude 122°36'54" W.

(2) Area No. 2. That area of Sinclair Inlet to the north and west of an area bounded by a line commencing at latitude 47°33'44" N., longitude 122°37'27" W.; thence to latitude 47°33'40" N., longitude 122°37'22.5" W.; thence to latitude 47°33'24" N., longitude 122°37'41" W.; thence to latitude 47°33'20" N., longitude 122°38'08" W.; thence to latitude 47°33'08" N., longitude 122°38'25" W.; thence to latitude 47°33'08" N., longitude 122°38'54" W.; thence to latitude 47°33'05" N., longitude 122°39'02.5" W.; thence to latitude 47°33'05" N., longitude 122°39'37" W.; and thence along the shoreline to the point of beginning. This line is located approximately 100 yards from the southerly end of the Naval Shipyard piers, drydocks or shoreline.

(3) *The regulations.* (i) Area No. 1. No vessel of more than 100 gross tons shall enter this area or navigate therein without permission from the enforcing agency.

(ii) Area No. 2. Vessels and other craft, except those under the supervision of local military or naval authority,

public vessels, and Horluck Transportation Company, Inc., and Washington State Ferries, shall not enter this area without permission from the enforcing agency.

(iii) The regulations in this paragraph shall be enforced by Commandant, Thirteenth Naval District, or his authorized representative.

(40 Stat. 266; 33 U.S.C. 1)

Note.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 25, 1979.

Michael Blumenfeld,
Assistant Secretary of the Army, (Civil Works).

[FR Doc. 79-20100 Filed 6-27-79; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 205

Medicaid Program

Correction

In FR Doc. 79-8962 appearing at page 17925 as the Part VII of the issue of Friday, March 23, 1979, in the first column on page 17943, paragraph n. is corrected as follows: "n. Section 205.190 is amended by revising paragraphs (u) (1) and (2)."

BILLING CODE 1505-01-M

Office of Human Development Services

42 CFR Parts 205 and 206

Research Projects Relating to Maternal and Child Health Services and Crippled Children's Services, and Research and Demonstration Projects Relating to Child Welfare Services; Withdrawal of Regulations; Correction

AGENCY: Office of Human Development Services, DHEW.

ACTION: Withdrawal of regulations; Correction.

SUMMARY: This document corrects the notice of withdrawal of regulations relating to Child Health Services, Crippled Children's Services, and Child Welfare Services, published at 44 FR 28745, May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Goldstein, Director, Grants and

Contract Management Division, Office of Human Development Services, 337F.5 Humphrey Building, Washington, D.C. 20201 (202) 245-1589.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-14203, appearing in the issue of Monday, May 7, 1979, on page 26745, make the following correction: Add "Date: Effective on May 7, 1979."

In addition, it should be noted that Chapter II of 42 CFR is now vacant.

Approved: June 18, 1979.

L. David Taylor,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 79-20004 Filed 6-27-79; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5663

[CA-566]

California; Transfer of Jurisdiction, Addition to Six Rivers National Forest

Correction

In FR Doc. 79-16127 appearing on page 29894 in the issue of Wednesday, May 23, 1979, the Public Land Order number should have appeared in the heading as set forth above.

43 CFR Public Land Order 5666

[W-44866]

Wyoming; Modification of Executive Order No. 5327 and Public Land Order No. 4522

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will modify a previous order to permit an exchange to the State of Wyoming of the mineral estate along with the surface estate of a portion of the lands withdrawn for oil shale.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi (202) 343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

Executive Order No. 5327 of April 15, 1930, and Public Land Order No. 4522 of September 13, 1968, are hereby modified to permit selection and conveyance to the State of Wyoming of the mineral estate in the following described public lands under the provisions of section 208 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756; 43 U.S.C. 1716:

Sixth Principal Meridian

T. 21 N., R. 117 W.,

Sec. 17, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,

SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 18, lots 7 and 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and E $\frac{1}{2}$ E $\frac{1}{2}$.

The area described contains 678.20 acres in Lincoln County.

June 20, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-20096 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-34-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-5609]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency

ACTION: Final rule

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

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, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In

return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

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

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date ¹
Arizona	Maricopa	Goodyear, town of	040046-B	Aug. 8, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 15, 1974 April 30, 1970	July 16, 1970.
Arkansas	Phillips	Helena, city of	050168-B	Feb. 15, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	June 28, 1974 Dec. 12, 1975	Do.
California	Merced	Merced, city of	060191-B	April 25, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	July 19, 1974 Sept. 19, 1975	Do.
Do	Stanislaus	Waterford, city of	060393-B	June 17, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	June 24, 1974 Oct. 17, 1975	Do.
Colorado	Weld	Dacono, town of	080236-A	July 6, 1976, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Sept. 5, 1975	Do.
Do	Larimer	Fort Collins, city of	080102-A	Aug. 14, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	June 28, 1974	Do.
Do	Garfield	Glenwood Springs, city of	080071-B	Oct. 23, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 1, 1974	Do.
Do	Weld	Greeley, city of	080184-B	Oct. 15, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 3, 1974 Feb. 28, 1975	Do.
Connecticut	New Haven	Beacon Falls, town of	090072-C	June 27, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	May 3, 1974 Oct. 22, 1976	Mar. 1, 1979.
Illinois	Will	Crest Hill, city of	170699-B	Aug. 5, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 29, 1974 Jun. 18, 1976	July 16, 1970.
Do	Cook	Willow Springs, village of	170174-B	Feb. 24, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Apr. 12, 1974	Do.
Kansas	Labette	Parsons, city of	200184-B	Oct. 3, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Feb. 1, 1974 Apr. 23, 1976	Do.
Massachusetts	Norfolk	Medfield, town of	250242-B	Sept. 6, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Sept. 6, 1974 July 23, 1976	Do.
Michigan	Oakland	Pontiac, township of	260177-B	Aug. 7, 1973, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Feb. 1, 1974 Aug. 20, 1976	Do.
Minnesota	Houston	Houston, city of	270193-B	Apr. 30, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Jan. 6, 1978	Do.
Do	Mower	Unincorporated area	270307-A	Dec. 22, 1972, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 21, 1975	Do.
Do	Stearns	Rockville, city of	270454	Apr. 8, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Aug. 2, 1974 Feb. 13, 1976	Do.
Missouri		St. Louis, city of	290385-A	Jan. 15, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Feb. 21, 1975	Do.
Montana	Flathead	Whitefish, city of	300026-B	Aug. 6, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	May 31, 1974 Jan. 9, 1976	Do.
New Hampshire	Merrimack	Boscawen, town of	330105-B	Oct. 14, 1976, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 15, 1974 Dec. 24, 1976	Do.
New Jersey	Burlington	Hanesport, township of	340099-A	June 20, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	July 30, 1976	Do.
Do	Ocean	Seaside Heights, borough of	340389-B	July 28, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 22, 1974	Do.
New York	Suffolk	Babylon, town of	360790-B	Aug. 25, 1972, emergency, July 16, 1979, regular, July 6, 1979, suspended.	July 26, 1974 Jan. 30, 1976	Do.
North Dakota	Pierce	Rugby, city of	380088-C	Sept. 24, 1976, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 22, 1974 Oct. 3, 1975	Do.
Oregon	Multnomah	Gresham, city of	410181-B	Jan. 21, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Dec. 7, 1971 Apr. 30, 1976	Do.
Pennsylvania	Cameron	Driftwood, borough of	420245-B	Apr. 16, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Aug. 9, 1974 Apr. 18, 1976	Do.
Do	Allegheny	Millvale, borough of	420053-B	May 21, 1973, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Dec. 20, 1973 Apr. 23, 1976	Do.
Texas	Hidalgo	LaJoya, city of	480341-B	June 26, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Jan. 23, 1974 Apr. 9, 1976	Do.
Do	Hidalgo	Pharr, city of	480347-B	Sept. 3, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	May 31, 1974 Aug. 27, 1979	Do.
Utah	Utah	Salem, city of	490160-A	Jan. 20, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	June 28, 1974	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date ¹
Vermont	Windham	Bellevue Falls, village of	500125-B	June 23, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Aug. 16, 1974 May 2, 1977	Do
Virginia	Scott	Dungannon, town of	510144-B	Oct. 7, 1975, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Mar. 22, 1979 July 2, 1976	Do
Washington	Pacific	Raymond, city of	530123-B	Apr. 2, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	May 31, 1974 Feb. 7, 1975	Do
Do	Grays harbor	Westport, city of	530067-B	Aug. 6, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended.	June 21, 1974 Jan. 16, 1976	Do
Wyoming	Albany	Laramie, city of	56002-B	May 23, 1976, emergency, July 16, 1979, regular, July 16, 1979, suspended.	Apr. 5, 1974 Feb. 6, 1976	Do
Do	Sweetwater	Rock Springs, city of	560051-b	Sept. 1, 1972, emergency, July 16, 1979, regular, July 16, 1979, suspended.	May 31, 1974 Dec. 12, 1975	Do

¹ Certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the housing and Urban Development Act of 1968); effective Jan. 28, 1969 [33 F.R. 17804, Nov. 28, 1968], as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 21, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-20078 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 64

[Docket No. FEMA-5590]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

§ 64.6 List of Eligible Communities

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

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 National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized

flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

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

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Lauderdale	Unincorporated areas	010323	June 14, 1979, emergency.	Mar. 31, 1978.
Illinois	170456	Henry, city of	170456	do	July 30, 1976.
Indiana	Marshall	Unincorporated areas	163443	do	Apr. 14, 1978.
Iowa	Cedar	Stanwood, city of	190356-A	do	Aug. 9, 1974 and May 14, 1976.
Nebraska	Adams	Juniata, village of	310233	do	Jan. 17, 1975.
Ohio	Logan	Zanesfield, village of	330345-A	June 11, 1979, emergency, June 11, 1979, regular.	Oct. 18, 1974.
Pennsylvania	Crawford	Woodcock, borough of	422493	June 14, 1979, emergency.	
Iowa	Bremer	Plainfield, city of	190327	June 18, 1979, emergency.	Nov. 5, 1976.
Do	Cedar	Stanwood, city of	190356-A	do	Aug. 9, 1974 and May 14, 1976.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date ¹
North Dakota	Ramsey	Creel, township of		380625-New	do	
California	Santa Clara	Unincorporated areas		060337	do	June 20, 1978.
Illinois	Macon	Mount Zion, village of		170962	do	Mar. 2, 1979.
Mississippi	Simpson	Unincorporated areas		280281	June 20, 1979, emergency.	
Ohio	Putnam	Gilboa, village of		390469-A	June 15, 1979, emergency.	Oct. 21, 1977.
					June 20, 1979, emergency.	Aug. 9, 1974.

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

Issued: June 20, 1979.
 Gloria M. Jimenez,
 Federal Insurance Administrator.
 [FR Doc. 79-19809 Filed 6-27-79; 8:45 am]
 BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4695]

National Flood Insurance Program; Final Flood Elevation Determination for Town of Hudson, Middlesex County, Mass.

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 Hudson, Middlesex County, Massachusetts.

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 Hudson, Middlesex County, Massachusetts.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hudson, Middlesex County, Massachusetts, are available for review at the Town Clerk's Office, Hudson, Massachusetts.

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

Hudson, Middlesex County, Massachusetts.

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 44 CFR Part 67.4(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 44 CFR Part 60.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River	Upstream Corporate Limits	214
	Chapin Road (Upstream)	211
	Confluence of Hog Brook	209
	Houchiton Street (Upstream)	206
	Broad Street (Upstream)	204
	Main Street (Upstream)	201
	Cox Street (Upstream)	200
	Downstream Corporate Limits	196
Assabet Branch No. 3	Mary Chris Road (Upstream)	201
	Cox Street (Upstream)	204
Assabet Branch No. 4	Downstream Corporate Limits	193
	Boston and Maine Railroad (Upstream)	207
Fort Meadow Brook	Fort Meadow Reservoir	263
	Causeway Street (Upstream)	236
	Shay Street (Upstream)	201
	Lewis Street (Upstream)	196
	Chestnut Street (Upstream)	187
Hog Brook	Main Street (Upstream)	185
	Confluence with Assabet River	209
	River Street (Upstream)	213
Danforth Brook	1,000 feet above River Street	221
	2,000 feet above River Street	236
	Confluence with Assabet River	206
	Apsley Street (Upstream)	220
	Packard Street (Upstream)	222
	Lois Street (Upstream)	226
	Lincoln Street (Upstream)	248
Upstream Corporate Limits	284	

(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: June 19, 1979.
 Gloria M. Jimenez,
 Federal Insurance Administrator.
 [FR Doc. 79-19806 Filed 6-27-79; 8:45 am]
 BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-3027]

National Flood Insurance Program; Final Flood Elevation Determination for City of Louisville, Winston County, Miss.

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 Louisville, Winston 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 City of Louisville, Mississippi.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Louisville, Winston County, Mississippi, are available for review at City Hall, Louisville, 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 City of Louisville, 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 44 CFR Part 67.4(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 44 CFR Part 60.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hughes Creek Tributary 3.	Highway 14 West.....	527
	West Street.....	517
	Vance Street.....	514
Hughes Creek Tributary 2.	Cagle Street.....	519
	Vance Street.....	514
Hughes Creek Tributary 1.	Oak Street.....	519
	Hemlock Road.....	517
	Armstrong Street.....	513
	Georgia Pacific Spur Line (upstream).....	511
Hughes Creek.....	Georgia Pacific Plant Road.....	498
	Georgia Pacific Road.....	497
	Georgia Pacific Spur Line (downstream).....	493
	Highway 14 West (Main Street).....	524
Town Creek Tributary 4.	Highway 25 South.....	522
	Vance Street.....	514
	Baremont Street.....	504
	Illinois Central Gulf Spur Line.....	498
	Highway 15 South.....	498
	Illinois Central Gulf Railroad.....	493
	Ivy Avenue.....	530
Town Creek.....	Allen Adams Drive.....	514
	Airport Road.....	529
	North Court Avenue.....	521
	Ivy Drive.....	521
	Highway 25.....	512
Stream 1.....	East Ridge Drive.....	509
	Highway 14.....	501
	Smyth Road.....	514

(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: June 19, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-19807 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-2773]

National Flood Insurance Program; Final Flood Elevation Determination for Town of Coventry, Kent County, R.I.

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 Coventry, Kent County, Rhode Island.

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 Coventry, Kent County, Rhode Island.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Coventry, Kent County, Rhode Island, are available for review at the bulletin board, Town Hall, 75 Main Street, Coventry, Rhode Island.

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 Coventry, Kent County, Rhode Island.

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 44 CFR Part 67.4(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 44 CFR Part 60.

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

Source of flooding	Location	Elevation in feet, above mean sea level
South Branch Pawcatuck River	Corporate Limits.....	147
	Old Mill Dam.....	174
	Laurel Avenue Bridge.....	209
	Sandy Bottom Lane Bridge.....	220
	South Main Street Bridge.....	225
Flat River.....	Downstream Flat River Dam.....	241
	Mouth.....	250
	Maple Valley Road Bridge.....	259
	Hammett Street Dam.....	286
	Franklin Road Culvert.....	303
Machock River.....	Valley Road Bridge.....	347
	Mouth.....	238
	Nooseneck Hill Road Bridge.....	244
Peer Farm Brook.....	Hall Pond Dam.....	261
	Upstream Town Farm Road Culvert.....	264
Stream B.....	Mouth.....	250
	Upstream River Road Culvert.....	283
	Confluence with Stump Pond.....	305
Tributary A.....	Mouth.....	245
	Upstream Culvert under Railroad Road.....	254
Baker Street Brook.....	Flat River Road Culvert.....	254
	Baker Street Culvert.....	194
	Upstream Eisenhower Road Culvert.....	205
	Upstream Farnham Avenue Culvert.....	228
Tigue Lake.....	Mouth.....	221
	Tigue Avenue Dam.....	230
	Upstream Arnold Street Culvert.....	232

(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: June 19, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-19808 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

45 CFR Part 1336

Native American Programs; Final rule; Correction

AGENCY: Office of Human Development Services, DHEW.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule relating to Native American Programs published at 44 FR 24060, April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Casimer Wichlacz, Director, Policy.

Planning and Budget Division,
Administration for Native Americans,
357G Humphrey Building, Washington,
D.C. 20201 (202) 428-4055.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-12641, appearing on Tuesday, April 24, 1979, on page 24077, make the following correction:

On page 24077, in § 1336.53(b)(4)(i), appearing in column two, add "or" after "No recipient" and before "delegate agency" in the first sentence.

Approved: June 18, 1979.

L. David Taylor,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 79-20003 Filed 6-27-79; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Browns Park National Wildlife Refuge, Colorado, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to big game hunting of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES:

Archery deer season, September 1 through September 23, 1979, inclusive.
Antique firearm season, September 8 through September 16, 1979, inclusive.
Rifle deer season, October 13 through October 17, 1979, inclusive, and November 3 through November 7, 1979, inclusive.

FOR FURTHER INFORMATION CONTACT:

James A. Creasy, Refuge Manager, Browns Park National Wildlife Refuge, Greystone Route, Maybell, Colorado 81640, telephone: 303-365-3695.

SUPPLEMENTARY INFORMATION:

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

Public hunting of deer is permitted on the Browns Park National Wildlife Refuge, Colorado, except in those areas designated by signs as closed to hunting. These areas are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426

Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Big game hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Browns Park National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

James A. Creasy,

Refuge Manager, Browns Park National Wildlife Refuge, Maybell, Colorado.

June 13, 1979.

[FR Doc. 79-20121 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

Atlantic Herring; Quota Determination

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These regulations make final the proposed regulations to count all herring caught west of 71°50' West longitude against the summer/fall quota for the Georges Bank and South management area, no matter when the herring are harvested. These regulations only revise the procedure for determining when a quota is reached. Their effect will be to encourage fishermen to concentrate their effort on the Georges Bank herring stock and reduce fishing pressure on the Gulf of Maine stock during seasonal migrations.

EFFECTIVE DATE: 0001 hours, June 26, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: On March 23, 1979, emergency regulations went into effect to conserve migrating Gulf of Maine herring while giving fishermen a better opportunity to harvest the optimum yield in the Georges Bank and South area (44 FR 18508, March 28, 1979). Those emergency regulations implemented an amendment to the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP) approved by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

The FMP was amended because tagging studies had indicated that significant numbers of herring from the Gulf of Maine stock migrated from the Gulf. These herring overwintered in that portion of the Georges Bank and South management area east of 71°50' West longitude. As a result, there was extensive intermingling of the Gulf and Georges Bank stocks in this area during the winter months. However, no tagged herring from the Gulf stock were recovered west of 71°50' West longitude. Therefore, it was determined that the deduction of herring caught west of the 71°50' line from the summer/fall (July 1–November 30) quota of the Georges Bank and South area, disregarding when the fish were caught, would encourage fishermen to concentrate their effort on the Georges Bank herring stock and reduce fishing pressure on the Gulf of Maine stock during seasonal migrations.

The emergency regulations were in effect through April 6, 1979 (45 days). The public had an opportunity to comment on the regulation until May 23,

1979 (60 days). No comments were received.

These regulations only revise the procedure for determining when a quota is reached. They do not alter any quota. Therefore, the Assistant Administrator has determined that this action is not a significant action under Executive Order 12044.

The final environmental impact statement for the FMP was filed with the Environmental Protection Agency on September 18, 1978.

The Assistant Administrator, for good cause, has found that these regulations shall become effective in less than 30 days after their publication. The bases for this determination are: (1) Fishing activity has already been regulated in this manner by the emergency regulations; and (2) Since these regulations require that herring taken west of 71°50' West longitude be deducted from the July 1–November 30 quota for the Georges Bank and South management area, they must be in effect by July 1, 1979.

Signed at Washington, D.C. this 21st day of June, 1979.

Authority: 16 U.S.C. 1801 *et seq.*
Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

Amend 50 CFR 653.21(b) by adding a new paragraph (3) as follows:

§ 653.21 Seasonal Catch Quotas

* * * * *

(b) * * *

* * * * *

(3) all herring caught west of 71°50' West longitude will be counted against the quota in section 653.21(b)(1), no matter when they are caught.

[FR Doc. 79-20250 Filed 6-27-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-WE-10-AD; Amdt. 39-3505]

Airworthiness Directives; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action published in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of McDonnell Douglas

Model DC-10 series airplanes by telegraphic message dated May 28, 1979, and amended by telegraphic messages dated May 29, 1979 and June 4, 1979. This AD was required because of a possibility of a wing mounted engine pylon support failure which could result in departure of the engine from the airframe.

DATES: June 28, 1979. Effective May 28, 1979, for the basic message of that date, May 29, 1979, for the amendment issued that date and June 4, 1979, for the amendment of that date, except with respect to certain persons specified in the body of the AD.

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

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI-750(54-60).

Also, a copy of the service information 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, California 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, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on May 28, 1979, and made effective immediately by telegram to all known operators of McDonnell Douglas DC-10 series airplanes because of a possibility of wing mounted engine pylon support failure which could result in departure of the engine from the airframe. This action was taken as a result of an accident which occurred at Chicago, Illinois on May 25, 1979. That AD required inspection and/or replacement of the bolts at the forward and aft ends of the thrust link assembly and inspection of the inside forward flange of each wing engine pylon aft bulkhead for cracks. As additional information became available, this AD was supplemented by a telegraphic amendment on May 29, 1979. This amendment specified additional inspection details and required that repetitive inspections be conducted at intervals not to exceed 100 hours' time

in service since the last inspection or ten days since the last inspection, whichever occurred earlier. Subsequent to the issuance of the amendment of May 29, 1979, reports were received that some DC-10 operators had removed and reinstalled engines and pylons as an assembly. It was observed that in reinstallation of the assembly, the aft bulkhead forward flange could be damaged by impact with the pylon aft support fitting. For this reason, the AD was again amended by telegraphic message of June 4, 1979, adding a requirement for inspection of aircraft which had the pylon or engine-pylon removed and reinstalled subsequent to the last accomplishment of the inspections specified in the original airworthiness directive.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of McDonnell Douglas Model DC-10 airplanes. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

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

McDONNELL DOUGLAS: Applies to DC-10-10, -10F, -30, -30F, and -40 series airplanes certificated in all categories.

To ensure integrity of the wing engine pylon to wing attachment, accomplish the following on both the right and left hand wing:

(a) Compliance with Paragraphs (a), (c) and (d) required by 0700 GMT May 29, 1979, unless already accomplished in the previous 72 hours. No revenue departures authorized after compliance time. Replace the bolts at both the forward and aft ends of the thrust link assemblies with:

(1) New bolts of the same P/N or an equivalent FAA approved P/N, or;

(2) Bolts that have been inspected and found to be free of cracks in accordance with McDonnell Douglas Alert Service Bulletin, A54-68, which was forwarded on May 27, 1979, or Alert Service Bulletin, A54-68, Revision 1, dated May 31, 1979 which was forwarded to all operators on May 28, 1979.

(b) When replacing the thrust link assembly bolts in accordance with Paragraph (a), ensure that the proper bushings and associated retainers/washers are installed in accordance with McDonnell Douglas Alert

Service Bulletin, A54-68, distributed May 27, 1979, or Revision 1, dated May 31, 1979.

(c) Visually inspect the inside forward flange of each wing engine pylon aft bulkhead for cracks in accordance with McDonnell Douglas Alert Service Bulletin, A54-68, distributed May 27, 1979, or Revision 1, dated May 31, 1979. Repair any cracks found before further flight in accordance with an FAA approved repair.

(d) Report results of inspections of the thrust link assembly bolts and aft pylon bulkhead, both positive and negative, to the Chief, Aircraft Engineering Division, FAA Western Region (reporting approved by Bureau of Budget under BOB No. 04-R 0174).

(e) 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.

(f) Prior to further revenue flight after 1700 GMT May 29, 1979, accomplish the following:

(1) Conduct a detailed visual inspection of the upper and lower plug areas of the pylon to front spar attach fitting, the aft monoball joint attachment and the pylon upper spar web in accordance with McDonnell Douglas Alert Service Bulletin A54-69 dated May 31, 1979 which was forwarded to all DC-10 operators on May 29, 1979, or Revision 1 dated May 31, 1979. In addition, conduct a thorough visual inspection of the entire remaining pylon to wing attach area, paying particular attention to the thrust link support fittings, (wing and pylon), the pylon to front spar attach fitting, and the aft pylon support bulkhead and associated wing support fitting for evidence of cracks, condition and security of fasteners and other signs of structural distress. Repair any deficiencies before further flight in accordance with FAA approved repairs.

(2) To ensure the integrity of the thrust link bushings remove and visually inspect the thrust link bolts (fore and aft) and visually inspect the interior surface of the bushings for any cracking or structural distress. Evidence of cracks or structural distress requires compliance prior to further flight with Paragraph (f)(5) of this AD.

Note.—Difficulty in removing the bolts is a possible indication of distress within the bushing.

(3) Report results of these inspections both positive and negative to the Chief, Aircraft Engineering Division, FAA Western Region or to the assigned FAA maintenance inspector. (Reporting approved by the Bureau of Budget under BOB No. 04-R 0174).

(4) Conduct the inspections required in Paragraph (c), (f)(1), and (f)(2) of this AD on a repetitive basis at intervals not to exceed 100 hours' time in service since the last inspection or 10 days since the last inspection, whichever occurs earlier.

(5) Within 100 hours' time in service or 10 days, whichever occurs sooner, from the accomplishment of the initial inspection required by Paragraph (f)(2) of this AD, remove the thrust link assembly through bushings and replace with new bushings of the same type design, or reinstall the removed bushings that have been magnetic

particle inspected and determined to be free of any cracks.

(g) Before further revenue flight, after receipt of the telegraphic AD issued on June 4, 1979, on aircraft which have had the pylon or engine/pylon removed and reinstalled subsequent to the last accomplishment of Paragraph (c), unless already accomplished, visually inspect the pylon aft bulkhead in accordance with the procedures contained in McDonnell Douglas DC-10 Alert Service Bulletin A54-68, Revision 1, Paragraphs 2, 3 and 4.

(h) After each reinstallation of the pylon or engine/pylon to the wing, accomplish the inspection required by Paragraph (g).

(i) If damage is found during inspections, before further revenue flight, repair in accordance with an FAA approved repair.

This amendment becomes effective upon publication in the Federal Register, as to all persons except those persons to whom it was made immediately effective by telegraphic messages dated May 28, 1979, as amended by telegraphic messages of May 29, 1979 and June 4, 1979 which contain this amendment.

(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 11.89)

Note.—The FAA believes that this document involves a Regulation which is significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this document is being issued as an Emergency Regulation, in accordance with DOT Policies and Procedures, an evaluation or analysis will be prepared and placed in the Public Docket as soon as possible.

Issued in Los Angeles, California on June 15, 1979.

James V. Nielsen,

Acting Director, FAA Western Region.

[FR Doc. 79-19995 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-GL-07-AD; Amdt. 39-3507]

Airworthiness Directives; Airborne Manufacturing Company—Dry Air Pumps

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all piston engine aircraft by airmail letter dated June 7, 1979. The AD requires review of serial numbers of Airborne Manufacturing Company Dry Air Pumps

and removal of affected serial numbered pumps.

DATE: Effective June 28, 1979.

Compliance required prior to next flight.

ADDRESSES: The applicable Service Letter may be obtained from Airborne, 711 Taylor Street, Elyria, Ohio 44035, Attention: John Staats. A copy of the Service Letter is contained in the Rules Docket, Regional Counsel, AGL-7, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: C. L. Smalley, Systems and Equipment Section, Engineering and Manufacturing Branch, Flight Standards Division, AGL-213, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 379.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on June 7, 1979, and made effective immediately by airmail letter and applicable to all piston engine aircraft. It was determined that on certain Airborne pumps there is a possibility of bearing seizure which could cause catastrophic failure of the pump with possible damage to the engine. Since this condition is likely to exist on other piston engine aircraft, an AD was issued to require review of the serial numbers of Airborne Dry Air Pumps and removal of affected serial numbered pumps.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

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 airworthiness directive:

AIRBORNE MANUFACTURING COMPANY:
Applies to the below listed part number Dry Air Pumps installed on piston engine aircraft certificated in all categories:

Airborne Part Number and Serial Numbers

211 CC: 5E9318 through 5E9347, 5E9407 through 5E11419

211 CC-9: 5E616 through 5E715

211 CC TR: 5E1264 through 5E1406

212 CW: 5E3403 through 5E4197, 5E9129E through 5E9131E
 212 CW-6: 5E9 through 5E25
 242 CW-4: 5E8 through 5E11
 441 CC: 5E332 through 5E401, 5E450 through 5E483
 441 CC-7: 5E911 through 5E981
 441 CC-9: 5E75 through 5E80
 441 CC-11: 5E4
 441 CC-13: 5E7 through 5E12
 441 CC-17: 5E106 through 5E116
 442 CW: 5E926 through 5E1023
 442 CW-4: 5E137 through 5E149
 442 CW-6: 5E765 through 5E785
 442 CW-8: 5E114
 4442 CW-12: 5E431 through 5E435

These pumps were not available for installation before May 15, 1979, therefore, dry air pumps installed previous to that date are exempt from this AD. Compliance is required prior to next flight.

To prevent catastrophic failure of the pump and subsequent loss of the vacuum system remove above listed dry air pumps from service and replace with an airworthy pump of the same part number. An airworthy pump is one which has a serial number not listed above or if listed above also has an "A" or "Z" ink stamped by the manufacturer with black ink on the periphery of the body near the mounting flange. The aircraft may be flown under day VFR conditions in accordance with FAR 21.197 to a base where the corrective action can be performed. Additional information concerning disposition of the affected pumps is contained in Airborne Manufacturing Company, Aviation Products Group, Service Letter Number 22A, dated June 5, 1979.

This amendment becomes effective June 28, 1979, as to all persons except those to whom it was made immediately effective by the airmail letter dated June 7, 1979, which contained this amendment.

(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)); 14CFR 11.89).

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 Charles Smalley, Engineering and Manufacturing Branch, Flight Standards Division, AGL-213, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois, on June 19, 1979.

Wm. S. Dalton,
 Acting Director, Great Lakes Region.

[FR Doc. 79-19934 Filed 6-27-79; 8:45 am]
 BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NE-03; Amdt. 39-3506]

Airworthiness Directives; Avco Lycoming Division LTS101-600A, -600B, -600A-2, and -650A-2 Turbohaft and LTP101-600, -600A, -600A-1, -600A-1A and -600A-1B Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Avco Lycoming LTS101-600A, -600B, -600A-2, and -650A-2 Turbohaft and LTP101-600, -600A, -600A-1, -600A-1A and -600A-1B turboprop engines by rescinding the requirements of the existing Airworthiness Directives for the LTP101-600A-1, -600A-1A, and -600A-1B model engines and by providing an alternate means of compliance for the LTP101-600 and -600A models, which eliminates the source of lubrication system contamination.

DATES: Effective date June 28, 1979. Compliance schedule as prescribed in text of AD.

ADDRESSES: The applicable Alert Notice and Service Bulletin may be obtained from Customer Services Director, Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497.

Copies of the Alert Notice and Service Bulletin are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7337.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3440, 59 FR 18002, AD 79-06-06, which currently requires the performance of repetitive spectrometric oil analysis and inspection for oil system contamination, prior to further flight, if the results of the

spectrometric oil analysis exceed acceptable limits on Avco Lycoming Division LTS101-600A, -600B, -600A-2, and -650A-2 Turbohaft and LTP101-600, -600A, -600A-1, -600A-1A and -600A-1B turboprop engines. After issuing Amendment 39-3440, the FAA has determined that no engines of the LTP101-600A-1 and LTP101-600a-1b models have been produced; accordingly, these models are deleted from the AD. The existing amendment is also not applicable to the LTP101-600A-1A model engines since these incorporate the alternate means of compliance permitted by this AD amendment.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3440, 59 FR 18002, AD 79-06-06, to read as follows:

AVCO LYCOMING DIVISION: Applies to all LTS101-600A, -600B, -600A-2, and -650A-2 Turbohaft and LTP101-600, and -600A turboprop engines.

Compliance required as indicated.

1. To prevent undetected lubrication system contamination leading to oil starvation of engine bearings and subsequent engine stoppage, accomplish the following within the next 5 hours of engine operation unless already accomplished and every 25 hours thereafter:

Perform a spectrometric oil analysis as outlined in the applicable Avco Lycoming Engine Maintenance Manual, Chapter 71-00-00, and in accordance with Avco Lycoming Alert Notice, Reference 3V-W714, dated February 16, 1979, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region. If any of the following spectrometric oil analysis limits are exceeded, inspect and repair, prior to further flight, in accordance with Chapter 72-00-00, Paragraph 13, of the appropriate Avco Lycoming Engine Maintenance Manual:

- a. Iron content, six parts per million.
- b. Between consecutive spectrometric oil analysis, iron content increases by three parts per million.
- c. any other metal, five parts per million.

Note.—Engine operation not to exceed 4 calendar days or 25 hours between extraction of oil sample and obtaining spectrometric oil analysis results is authorized.

2. For LTP101-600 and 600A turboprop engines, S/N LE 50001 through S/N LE

50017, the requirements of paragraph 1 may be discontinued after the power turbine rotor assembly P/N 4-143-010-01-02 is replaced with either:

a. Rotor assembly P/N 4-143-010-01/02 with "APOLS932277" etched on rear face of wrenching surface, or

b. Rotor assembly P/N 4-143-010-03, in accordance with Avco Lycoming Service Bulletin No. LTP101-72-0003, Revision 1, dated May 21, 1979, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

Avco Lycoming Alert Notice, Reference 3V-W714, dated February 18, 1979, and Service Bulletin No. LTP101-72-0003, Revision 1, dated May 21, 1979, refer to this subject. The manufacturer's Alert Notice, Service Bulletin, and Manual identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Director, Customer Services, Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06514. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591.

This amendment becomes effective upon publication in the Federal Register (June 28, 1979).

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

Issued in Burlington, Massachusetts on June 18, 1979.

Robert E. Whittington,
Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-19997 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-GL-8-AD; Amdt. 39-3508]

Airworthiness Directives; General Electric CF6-50 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which requires the removal from service of

certain stage 3-9 high pressure compressor rotor spools necessary to prevent engine failure due to fatigue cracking, from a material defect, which could result in the noncontainment of rotor fragments. Due to design differences, this failure mode does not affect the CF6-6 series engines. This AD was prompted by a report of engine failure during takeoff in Okinawa, Japan in March 1979.

DATES: June 28, 1979. Compliance required within the next 30 calendar days after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT: Robert Alpiser, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There have been two instances of compressor rotor failure on CF6-50 series engines installed in DC-10 aircraft; the first in Bombay, India in 1974, and the second in Okinawa, Japan in March 1979. Neither failure resulted in personal injury, nor major aircraft damage. The cause of these failures was determined to be fatigue cracking that propagated from a material defect in the compressor rotor.

Since this condition may occur on other engines of this type design, an airworthiness directive is being issued, which requires the removal from service of certain stage 3-9 high pressure compressor rotor spools, which have been identified as possibly containing material defects.

Since it was found that immediate corrective action is required, notice and public procedure thereon are impracticable and contrary to the public interest and good cause exists for making the AD effective immediately as to all known operators of large air carrier type aircraft with General Electric CF6-50 series engines installed. This AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

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 airworthiness directive:

GENERAL ELECTRIC: Applies to General Electric Model CF6-50 series engines containing stage 3-9 high pressure compressor rotor spools P/N 9081M49 (serial numbers as specified in the body

of this AD) installed in, but not limited to certain McDonnell Douglas DC-10, Boeing 747, and Air Bus Industries A-300 series aircraft certificated in all categories. Due to design differences, this AD does not affect CF6-6 series engines.

Compliance required within the next 30 calendar days after the effective date of this AD, unless previously accomplished.

To preclude possible engine failure resulting from compressor rotor spool fatigue cracking, remove from service stage 3-9 high pressure compressor rotor spools P/N 9081M49, Serial Numbers A0436, A0570, A0581, A0590, A0432 and A0443.

(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. 1055(c)); and 14 CFR 11.89).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT 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 Robert Alpiser, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois on June 18, 1979.

Wm. S. Dalton,
Acting Director, Great Lakes Region.

[FR Doc. 79-19972 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-6]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Brownwood, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Brownwood, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Brownwood Municipal Airport. The circumstance which created the need for the action is the establishment of a partial instrument landing system (ILSP) to runway 17.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:**History**

On April 2, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 19205) stating that the Federal Aviation Administration proposed to alter the Brownwood, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Brownwood, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Brownwood Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, August 9, 1979, as follows:

In Subpart G, 71.181 (44 FR 442) the following transition area is altered to read:

Brownwood, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Brownwood Municipal Airport (latitude 31°47'40" N., longitude 98°57'25" W.).

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

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 Fort Worth, Texas, on June 19, 1979.

Henry N. Stewart,
Acting Director, Southwest Region.

[FR Doc. 79-18974 Filed 6-27-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-8]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Redesignate the Anchorage, Alaska, (Merrill Field/Elmendorf AFB) control zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates the Anchorage, Alaska, (Merrill Field/Elmendorf AFB) control zone. This description does not alter the control zone boundary nor does it affect controlled airspace for aircraft executing instrument approaches to Elmendorf AFB. There are no instrument approaches to Merrill Field. The need for this action was created by the decommissioning of the Elmendorf AFB OM.

EFFECTIVE DATE: 0901 GMT, October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of the Federal Aviation Regulations (14 CFR Part 71) is to redesignate the Anchorage, Alaska, (Merrill Field/Elmendorf AFB) control zone. The control zone was last described in § 71.171 of the Federal Aviation Regulations (44 FR 353) on January 2, 1979. The Elmendorf AFB OM was used in the previous description to define a boundary of the control zone extension. The Elmendorf AFB OM has been decommissioned. Consequently, it is now necessary to redesignate the control zone utilizing the Elmendorf ILS localizer antenna as the new reference point for the description. Since this amendment is a minor matter altering only the description, but not the boundary of the control zone, and will have no impact on the public, I find that

notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 353) is amended to redesignate the Anchorage, Alaska, (Merrill Field/Elmendorf AFB) control zone as follows:

Anchorage, Alaska, (Merrill Field/Elmendorf AFB)

Within a 3-mile radius of Merrill Field (latitude 61°13' N., longitude 149°51' W.); within a 5-mile radius of Elmendorf AFB (latitude 61°15' N., longitude 149°49' W.); within 2 miles each side of the Elmendorf ILS localizer W course extending from the 5-mile radius zone to a point 7.5 miles from the localizer antenna, excluding the portion within the Anchorage (Bryant AAF) control zone.

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

Note.—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 1134, 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, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on June 20, 1979.

A. B. Bruck,
Acting Director, Alaskan Region.

[FR Doc. 79-12973 Filed 6-27-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 79-CE-8]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Sac City, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Sac City, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 36 at the Sac City, Iowa Municipal Airport based on the Sac City Non-Directional Radio Beacon (NDB), a navigational aid. The

intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to Runway 36 at the Sac City Municipal Airport, Sac City, Iowa, is being established based on the Sac City Non-Directional Radio Beacon (NDB), a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Sac City, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 23261 and 23262 of the Federal Register dated April 19, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sac City, Iowa. Interested persons were invited to participate in this rule making 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.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442), is amended effective 0901 GMT August 9, 1979, by altering the following transition area:

Sac City, Iowa

That airspace extending upward from 700' above the surface within a 6½ mile radius of the Sac City Municipal Airport (latitude 42°22'30" north, longitude 94°58'45" west), and within three miles each side of the 138° bearing from the Sac City NDB (latitude 42°22'33", longitude 94°58'51"), extending from the 6½ mile radius area to 8½ miles southeast of the NDB and within three miles each side of the 172° bearing from the Sac

City NDB, extending from the 6½ miles radius area to 8½ mile south of the NDB.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).

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.

Issued in Kansas City, Missouri, on June 8, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[FR Doc. 79-19956 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97.

[Docket No. 19299; Amdt. No. 1141]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obtained from:

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

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

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

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

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

the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

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

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

§ 97.23 [Amended]

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

Effective August 9, 1979

Concord, CA—Buchanan Field, VOR Rwy 19R, Amdt. 9
 Macon, GA—Lewis B. Wilson, VOR Rwy 13, Amdt. 7
 Chicago, IL—Chicago-O'Hare Intl, VOR Rwy 22R, Amdt. 7
 Kankakee, IL—Greater Kankakee, VOR Rwy 4, Amdt. 2
 Kankakee, IL—Greater Kankakee, VOR Rwy 22, Amdt. 2
 Mt. Vernon, IL—Mt. Vernon-Outland, VOR Rwy 5, Amdt. 8

Mt. Vernon, IL—Mt. Vernon-Outland, VOR Rwy 23, Amdt. 8
 New Castle, IN—New Castle-Henry County Muni., VOR Rwy 27, Amdt. 5
 Kansas City, KS—Fairfax Muni., VOR Rwy 17, Amdt. 11
 Mansfield, MA—Mansfield Muni., VOR-A, Amdt. 11
 McComb, MS—McComb-Pike County, VOR/DME-A, Amdt. 5
 Monticello, NY—Sullivan County Int'l, VOR/DME Rwy 33, Original
 Spring Valley, NY—Ramapo Valley, VOR Rwy 8, Original
 Rutherfordton, NC—Rutherford County, VOR Rwy 36, Original
 Hermiston, OR—Hermiston Municipal, VOR/DME A, Amdt. 1
 East Stroudsburg, PA—Stroudsburg-Pocono Airpark, VOR/DME-A Amdt. 2
 Quakertown, PA—Quakertown, VOR Rwy 11, Amdt. 2
 Mayaguez, PR—Mayaguez Airfield, VOR Rwy 8, Amdt. 5
 Dillon, SC—Dillon County, VOR/DME Rwy 6, Amdt. 2
 Myrtle Beach, SC—Myrtle Beach AFB/Civil Jet Port, VOR/DME-A, Orig. cancelled
 Clarksville, TN—Outlaw Field, VOR Rwy 34, Amdt. 10
 Brownwood, TX—Brownwood Muni., VOR Rwy 17, Amdt. 7
 Leesburg, VA—Leesburg Muni (Godfrey Field), VOR Rwy 35, Amdt. 3
 Norfolk, VA—Norfolk Intl, VOR/DME Rwy 14, Amdt. 1
 Norfolk, VA—Norfolk Intl, VOR Rwy 23, Amdt. 5
 Norfolk, VA—Norfolk Intl, VOR/DME Rwy 32, Amdt. 3

Effective July 12, 1979

Minneapolis, MN—Flying Cloud, VOR Rwy 9L, Amdt. 9
 Minneapolis, MN—Flying Cloud, VOR Rwy 36, Amdt. 5

§ 97.25 [Amended]

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

Effective August 9, 1979

Concord, CA—Buchanan Field, LDA Rwy 19R, Amdt. 1
 Chicago, IL—Chicago-O'Hare Intl, LOC Rwy 4L, Amdt. 15
 McComb, MS—McComb-Pike County, LOC Rwy 15, Amdt. 2
 Paris, TN—Henry County, SDF Rwy 1, Original
 Brownwood, TX—Brownwood Muni., LOC Rwy 17, Original
 Killeen, TX—Killeen Muni., LOC Rwy 1, Original
 Newport News, VA—Patrick Henry Intl, LOC BC Rwy 25, Amdt. 8

Effective July 12, 1979

Kodiak, AK—Kodiak, LOC/DME Rwy 25, Original, cancelled

§ 97.27 [Amended]

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

Effective August 23, 1979

Sweetwater, TX—Sweetwater Muni., NDB Rwy 16, Original

Effective August 9, 1979

Andalusia, AL—Andalusia-Opp, NDB-A, Original
 Sebring, FL—Sebring Airport and Industrial Park, NDB Rwy 36, Amdt. 2
 Waycross, GA—Waycross-Ware County, NDB Rwy 18, Amdt. 1
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 4L, Amdt. 12
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 9R, Amdt. 12
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 14L, Amdt. 21
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 14R, Amdt. 19
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 27R, Amdt. 18
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 32L, Amdt. 17
 Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 32R, Amdt. 17
 Fairfield, IL—Fairfield Municipal, NDB Rwy 36, Amdt. 5
 Emmetsburg, IA—Emmetsburg Municipal, NDB Rwy 13, Original
 Emmetsburg, IA—Emmetsburg Municipal, NDB Rwy 31, Original
 Sac City, IA—Sac City Municipal, NDB Rwy 32, Original, cancelled
 Sac City, IA—Sac City Municipal, NDB Rwy 36, Original
 Kansas City, KS—Fairfax Muni., NDB-B, Amdt. 12
 Cambridge, NE—Municipal, NDB Rwy 14, Original
 Cambridge, NE—Municipal, NDB Rwy 32, Original
 Rutherfordton, NC—Rutherford County, NDB Rwy 36, Amdt. 1
 Hettinger, ND—Hettinger Municipal, NDB Rwy 30, Original
 Guymon, OK—Guymon Muni., NDB Rwy 18, Amdt. 3
 Shawnee, OK—Shawnee, Muni., NDB Rwy 17, Amdt. 2
 Pendleton, OR—Pendleton Muni., NDB-A, Amdt. 5
 Quakertown, PA—Quakertown, NDB Rwy 29, Amdt. 7
 Greer, SC—Greenville-Spartanburg, NDB Rwy 3, Amdt. 10
 Loris, SC—Twin City, NDB Rwy 26, Original
 Clarksville, TN—Outlaw Field, NDB Rwy 15, Amdt. 2
 Paris, TN—Henry County, NDB Rwy 1, Original
 Paris, TN—Henry County, NDB Rwy 1, Amdt. 7, cancelled
 Paris, TN—Henry County, NDB Rwy 19, Amdt. 6, cancelled
 Waverly, TN—Humphreys County, NDB Rwy 21, Original
 Big Sandy, TX—Ambassador Field, NDB Rwy 8, Amdt. 1, cancelled
 Kerrville, TX—Kerrville Municipal/Louis Schreiner Field, NDB-A, Amdt. 4, cancelled
 Killeen, TX—Killeen Muni., NDB Rwy 1, Amdt. 1
 Bridgewater, VA—Bridgewater Air Park, NDB-A, Amdt. 2

Newport News, VA—Patrick Henry Intl, NDB Rwy 7, Amdt. 18

§ 97.29 [Amended]

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

* * * *Effective September 6, 1979*

Albuquerque, NM—Albuquerque Intl, ILS Rwy 8, Amdt. 2

* * * *Effective August 9, 1979*

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 4R, Amdt. 4

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 9L, Amdt. 4

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 9R, Amdt. 10

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 14L, Amdt. 26

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 14R, Amdt. 25

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 22L, Amdt. 3

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 22R, Amdt. 5

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 27L, Amdt. 9

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 27R, Amdt. 20

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 32L, Amdt. 19

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 32R, Amdt. 17

Mt. Vernon, IL—Mt. Vernon-Outland, ILS Rwy 23, Amdt. 3

Kansas City, KS—Fairfax Muni., ILS-A, Amdt. 15

Pendleton, OR—Pendleton Muni., ILS Rwy 25R, Amdt. 20

Newport News, VA—Patrick Henry Intl, ILS Rwy 7, Amdt. 22

* * * *Effective July 12, 1979*

Kodiak, AK—Kodiak, ILS/DME-1 Rwy 25, Original

* * * *Effective June 16, 1979*

Atlanta, GA—Charlie Brown County, ILS Rwy 8R, Amdt. 11

§ 97.31 [Amended]

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

* * * *Effective August 9, 1979*

Atlanta, GA—Charlie Brown County, RADAR-1, Amdt. 14

Chicago, IL—Chicago-O'Hare Intl, RADAR-1, Amdt. 35

Covington, KY—Greater Cincinnati, RADAR-1, Amdt. 18

San Juan, PR—Puerto Rico International, RADAR-1, Original

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective August 23, 1979*

Aurora, IL—Aurora Municipal, RNAV Rwy 9, Amdt. 6

Aurora, IL—Aurora Municipal, RNAV Rwy 27, Original

* * * *Effective August 9, 1979*

Brunswick, GA—Glynco Jetport, RNAV Rwy 7, Original

Brunswick, GA—Glynco Jetport, RNAV Rwy 25, Original

Mt. Vernon, IL—Mt. Vernon-Outland, RNAV Rwy 5, Amdt. 2

Kansas City, KS—Fairfax Muni., RNAV Rwy 17, Amdt. 5

Kansas City, KS—Fairfax Muni., RNAV-C, Amdt. 6

McComb, MS—McComb-Pike County, RNAV Rwy 33, Amdt. 5

Norfolk, VA—Norfolk Intl, RNAV Rwy 14, Amdt. 3

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. Sections 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—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 June 22, 1979.

James M. Vines,
Chief, Aircraft Programs Division.

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

[FR Doc. 79-19993 Filed 6-27-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 19301; Amdt. 91-156]

General Operation and Flight Rules; Prohibition Against Use of Certain Reports Filed Under Aviation Safety Reporting Program in FAA Enforcement Actions.

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

SUMMARY: The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to set forth in the regulations the policy of the Administrator of the Federal Aviation Administration (FAA) which prohibits the use of certain reports submitted to the National Aeronautics and Space Administration (NASA) under the FAA Aviation Safety Reporting Program, or information derived therefrom, in any FAA enforcement action.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Howe, Deputy Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone (202) 426-3773.

SUPPLEMENTARY INFORMATION:

Background

The Administrator of the Federal Aviation Administration is empowered and directed by the Federal Aviation Act to encourage and foster safety in air commerce. Pursuant to this authority the Administrator adopted a voluntary Aviation Safety Reporting Program designed to encourage the reporting and identification of deficiencies and discrepancies in the aviation system (40 FR 17775, April 22, 1975). The FAA utilizes the National Aeronautics and Space Administration (NASA) as a third party to receive and analyze the Aviation Safety Reports. This cooperative safety reporting program invites pilots, controllers, and other users of the National Aviation System or any other person, such as maintenance personnel, to report to NASA actual or potential discrepancies and deficiencies involving the safety of aviation operations. The reporting program and reporting system, as modified effective July 1, 1979 (44 FR 25279, April 30, 1979), is described in FAA Advisory Circular 00-46B, published elsewhere in this edition of the Federal Register.

As noted in the Advisory Circular, the receipt, processing, and analysis of the reports by NASA ensures the anonymity of the reporter and of all parties involved in a reported occurrence or incident. The FAA does not seek and NASA will not release or make available to the FAA any report filed with NASA under the safety reporting program, or other information that might reveal the identity of any party involved in the occurrence or incident reported to NASA. The Administrator of the FAA further believes that the inclusion in the Federal Aviation Regulations of his policy that the reports filed with NASA (or information derived therefrom) cannot be used by the FAA for enforcement purposes would further encourage users of the aviation system to file reports. This amendment sets forth that policy in new § 91.57.

Since this amendment relates to an enforcement policy of the Administrator of the FAA under the Federal Aviation Act of 1958 and since the revised Aviation Safety Reporting Program to which it relates becomes effective July 1, 1979, I find that notice and public procedures thereon are unnecessary and that good cause exists for making this

amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended, effective July 1, 1979, by adding a new § 91.57 to read as follows:

§ 91.57 Aviation Safety Reporting Program; prohibition against use of reports for enforcement purposes.

The Administrator of the FAA will not use reports submitted to the National Aeronautics and Space Administration under the Aviation Safety Reporting Program (or information derived therefrom) in any enforcement action, except information concerning criminal offenses or accidents which are wholly excluded from the Program.

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

Note.—The FAA has determined that this document is not significant under the criteria in Executive Order 12044 and set forth in "Department of Transportation Regulatory Policies and Procedures" published in the Federal Register February 26, 1979 (44 FR 11034).

Issued in Washington, D.C., on June 25, 1979.

Langhorne Bond,
Administrator.

AC 00-46B.

Date June 15, 1979.

ADVISORY CIRCULAR

Department of Transportation, Federal Aviation Administration, Washington, D.C.

Subject: Aviation Safety Reporting Program

Purpose. This circular describes the Federal Aviation Administration (FAA) Aviation Safety Reporting Program (ASRP) which utilizes the National Aeronautics and Space Administration (NASA) as a third party to receive and analyze Aviation Safety Reports. This cooperative safety reporting program invites pilots, controllers, and other users of the National Aviation System or any other person, such as maintenance personnel, to report to NASA actual or potential discrepancies and deficiencies involving the safety of aviation operations. The operations covered by the program include departure, enroute, approach and landing operations and procedures, air traffic control procedures and equipment, pilot/controller communications, aircraft movement on the airport, and near mid-air collisions. The effectiveness of this program in improving safety depends on the free, unrestricted flow of information from the users of the National Aviation System. Based on information obtained from this program, the FAA will take corrective action as necessary to remedy defects or deficiencies in the National Aviation System. The reports may also

provide data for improving the current system and planning for a future system.

2. *Cancellation.* Advisory Circular 00-40A dated March 31, 1976, is cancelled.

3. Background.

a. The primary mission of the FAA is to promote aviation safety. To further this mission, the FAA instituted a voluntary Aviation Safety Reporting Program on April 30, 1975, designed to encourage the reporting and identification of deficiencies and discrepancies in the system.

b. The FAA determined that ASRP effectiveness would be greatly enhanced if the receipt, processing, and analysis of the raw data were accomplished by NASA rather than the FAA. This would ensure the anonymity of the reporter and of all parties involved in a reported occurrence or incident, and, consequently, increase the flow of information necessary for the effective evaluation of the safety and efficiency of the system. Accordingly, NASA designed and administers the Aviation Safety Reporting System (ASRS) to perform these functions in accordance with a Memorandum of Agreement executed by FAA and NASA on August 15, 1975, as modified April 24, 1979.

4. NASA Responsibilities.

a. The NASA Aviation Safety Reporting System provides for the receipt, analysis, and de-identification of aviation safety reports; in addition periodic reports of findings obtained through the reporting program are published and distributed to the public, the aviation community and FAA.

b. A NASA ASRS advisory committee comprised of representatives from the aviation industry, consumers, Department of Defense, NASA, and FAA advises NASA on the conduct of the ASRS. The committee conducts periodic meetings to evaluate and ensure the effectiveness of the reporting system.

5. Prohibition Against Use of Reports for Enforcement Purposes.

a. Section 91.57 of the Federal Aviation Regulations (14 CFR 91.57) prohibits the use of any report submitted to NASA under the ASRS (or information derived therefrom) in any disciplinary action except information concerning criminal offenses or accidents which is covered under Paragraph 7a. (1) and (2) below.

b. When a violation of the Federal Aviation Regulations comes to the attention of the FAA from a source other than a report filed with NASA under ASRS, appropriate action will be taken. See Paragraph 9, below.

c. The NASA ASRS security system is designed and operated by NASA to ensure the confidentiality and anonymity of the reporter and all other parties involved in a reported occurrence or incident. The FAA will not seek and NASA will not release or make available to the FAA any report filed with NASA under ASRS or any other information that might reveal the identity of any party involved in an occurrence or incidence reported under ASRS. There has been no breach of confidentiality in the over 17,000 reports filed under ASRS.

6. *Reporting Procedures.* NASA ARC Form 277 (Revised June 1979), which is

preaddressed and postage free, is available at FAA offices. This form or a narrative report should be completed and mailed to: Aviation Safety Reporting System, P.O. Box 169, Moffett Field, CA 94035.

7. Processing of Reports.

a. NASA procedures for processing Aviation Safety Reports assure that reports are initially screened for:

(1) Information concerning criminal offenses, which will be promptly referred to the Department of Justice and FAA.

(2) Information concerning accidents, which will be promptly referred to the National Transportation Safety Board and the FAA.

Note.—Reports discussing criminal activities or accidents are not de-identified prior to their referral to the agency outlined above.

(3) Time-critical information which, after de-identification, will be promptly referred to FAA and other interested parties.

b. Each Aviation Safety Report has a tear-off portion which contains the information that identifies the persons submitting the report. This tear-off portion will be removed by NASA, time stamped, and returned to the reporter as his receipt. This will provide the reporter with proof that he filed a report on a specific incident or occurrence.

The identification strip section of the ASRS form provides NASA program personnel with a means by which reporters can be contacted in case additional information is sought in order to understand more completely the report's content. Except in the case of reports describing accidents or criminal activities, no copy of an ASRS form's identification strip is created or retained for the ASRS files. Prompt return of identification strips is a primary element of the ASRS program's report de-identification process and assures the reporter's anonymity.

8. *De-Identification.* All information that might assist in or establish the identification of persons filing ASRS reports and parties named in those reports will be deleted, except for reports covered under Paragraph 7a. (1) and (2) above. This de-identification will be accomplished normally within 24-48 hours after NASA's receipt of the reports if no further information is requested from the reporter.

9. Enforcement Policy.

a. It is the policy of the Administrator of the FAA to perform his responsibility under the Federal Aviation Act for the enforcement of the Act and the Federal Aviation Regulations in a manner that will best tend to reduce or eliminate the possibility of or recurrence of aircraft accidents. The FAA enforcement procedures are set forth in Part 13 of the Federal Aviation Regulations (14 C.F.R. Part 13) and FAA enforcement handbooks.

b. In determining the type and extent of the enforcement action to be taken in a particular case, the following factors are considered:

- (1) Nature of the violations;
- (2) Whether the violation was inadvertent or deliberate;
- (3) The certificate holder's level of experience and responsibility;

- (4) Attitude of the violator;
- (5) The hazard to safety of others which should have been foreseen;
- (6) Action taken by employer or other Government authority;
- (7) Length of time which has elapsed since violation;
- (8) The certificate holder's use of the certificate;
- (9) The need for special deterrent action in a particular regulatory area, or segment of the aviation community; and
- (10) Presence of any factors involving national interest, such as the use of aircraft for criminal purposes.

c. The filing of a report with NASA concerning an incident or occurrence involving a violation of the Act or the Federal Aviation Regulations is considered by the FAA to be indicative of a constructive attitude. Such an attitude will tend to prevent future violations. Accordingly, although a finding of a violation may be made, neither a civil penalty nor certificate suspension will be imposed if:

- (1) The violation was inadvertent and not deliberate;
- (2) The violation did not involve a criminal offense, or accident, or action under section 609 of the Act which discloses a lack of qualification or competency, which are wholly excluded from this policy;
- (3) The person has not been found in any prior FAA enforcement action to have committed a violation since the initiation of the ASRP of the Federal Aviation Act or of any regulation promulgated under that Act; and
- (4) The person proves that, within 10 days after the violation, he or she completed and delivered or mailed a written report of the incident or occurrence to NASA under ASRS. See Paragraphs 5c. and 7b., above.

Note.—Paragraph 9 does not apply to air traffic controllers. Provisions concerning air traffic controllers involved in incidents reported to NASA under ASRS are addressed in internal FAA directives.

10. *Other Reports.* This program does not eliminate responsibility for reports, narratives, or forms presently required by existing directives.

011. *Effective Date.* The modified Aviation Safety Reporting Program described by this Advisory Circular is effective July 1, 1979.

12. Availability of Forms.

a. Additional copies of the attached reporting form (NASA ARC Form 277 (Revised June 1979)) may be obtained free of charge from FAA offices, including Flight Service Stations.¹

b. Government, State and organized industry groups may obtain forms in quantity by submitting requests to the Department of Transportation, Federal Aviation Administration, Aeronautical Center, Distribution Section, AAC-45C, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

c. NASA ARC Form 277 (Revised June 1979), Aviation Safety Report, will be available approximately June 15, 1979. An initial distribution will be made to regions,

centers and FAA facilities. Forms will be stocked in the FAA Depot and will be available through normal supply channels, NSN 0052-00-845-4002, unit of issued: sheet.

Langhorne M. Bond,

Administrator.

[FR Doc. 79-20281 Filed 6-27-79; 9:40 am]

BILLING CODE 4910-13-M

¹ Filed with the Office of the Federal Register as part of the original document.

Proposed Rules

Federal Register

Vol. 44, No. 126

Thursday, June 23, 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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 921]

Handling of Fresh Peaches Grown in Designated Counties in Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed minimum grade and size requirements on shipments of fresh Washington peaches. These requirements are designed to provide for orderly marketing of peaches in the interest of producers and consumers.

DATES: Comments must be received by July 11, 1979.

ADDRESSES: Send comments to Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7CFR 1.27(b)).

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

SUPPLEMENTARY INFORMATION: The proposal was submitted by the Washington Fresh Peach Marketing Committee, established under the marketing agreement and Order No. 921 (7CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposal has not been determined significant under USDA criteria for implementing Executive Order 12044.

The recommendation of the Washington Fresh Peach Marketing Committee reflects its appraisal of the current and prospective crop and market conditions. Washington's 1979 fresh peach shipments are estimated by the committee at 8,500 tons, compared with

fresh peach shipments in 1978 of 10,006 tons. The proposed regulation, herein set forth, is designed to prevent the handling on and after August 1, 1979, of low quality and small size peaches and provide for orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

Such proposal reads as follows:

§ 921.316 Peach Regulation 16.

Order. (a) During the period August 1, 1979, through July 31, 1980, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with subparagraph (5) of this paragraph.

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided*, That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the Western lug box or the standard peach box.

(2) *Minimum size.*

(i) Such peaches of any variety, except peaches of the Elberta varieties, when packed in any container except the standard peach box, shall measure not less than 2 $\frac{3}{8}$ inches in diameter;

(ii) Such peaches of any variety when packed in the standard peach box shall measure not less than 2 $\frac{1}{4}$ inches in diameter; and

(iii) Such peaches of the Elberta varieties when packed in any container shall measure not less than 2 $\frac{3}{4}$ inches in diameter.

(3) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(4) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a Western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided*, That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled; and

(ii) Such peaches other than peaches in loose or jumble packs in any containers shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1212), or the U.S. Standards for Peaches (7 CFR 2851.1210 et seq.).

(5) Notwithstanding any other provisions of this section, any individual shipment of peaches sold by the producer or at an established

packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and Certification) if:

(i) The shipment consists of peaches sold for home use and not for resale; and

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches.

(b) The terms "Washington Extra Fancy Grade", "Washington Fancy Grade", and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective October 18, 1971), issued by the State of Washington Department of Agriculture; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the containers in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4 $\frac{1}{4}$ to 6 by 11 $\frac{1}{2}$ by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11 $\frac{1}{2}$ by 18 inches; the term "well filled" shall mean the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in the marketing agreement and order.

Dated: June 22, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 79-17581 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 922]

Handling of Fresh Apricots Grown in Designated Counties in Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments with respect to minimum grade, maturity, and size requirements

applicable to fresh shipments of Washington apricots for the 1979 season. The proposal is designed to maintain orderly marketing conditions in the interest of producers and consumers.

DATES: Comments must be received on or before July 10, 1979.

ADDRESSES: Send comments to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

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

SUPPLEMENTARY INFORMATION: The proposed regulation was submitted by the Washington Apricot Marketing Committee, established pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922) which regulates the handling of apricots grown in Washington. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposal has not been determined significant under USDA criteria for implementing Executive Order 12044.

The proposed regulation is based on an appraisal of current and prospective crop and market conditions. Utilized production during the 1979 season is estimated by the committee at 2,000 tons, compared with 1978 utilized production of 1,984 tons. The proposed regulation is designed to assure shipment of fruit of acceptable quality in the interest of producers and consumers consistent with the objectives of the act.

The proposal reads as follows:

§ 922.319 Apricot Regulation 19.

(a) During the period August 1, 1979, through July 31, 1980, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) *Minimum size requirements.* Such apricots measure not less than 1½ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties when packed in unlidded containers may measure not less than 1¼ inches: *Provided,* That not more

than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provisions of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale.

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that, with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on the U.S. Department of Agriculture Standard Ground Color Chart of Apples and Pears in the Western States.

Dated: June 22, 1979,

D. S. Kuryloski,
*Acting Director, Fruit and Vegetable Division,
Agricultural Marketing Service.*

[FR Doc. 79-19978 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 79-ASW-19]

Airworthiness Directives; Brantly Models B-2, B-2A, and B-2B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD 68-4-4) applicable to Brantly Models B-2, B-2A, and B-2B helicopters by limiting the AD to certain design tail rotor blades and to extend to 300 hours the inspection interval for the new improved strength tail rotor blades, P/N 111-11A, that use the spar, P/N D1783. Helicopters certificated in all categories would also be included in the applicability statement of the AD.

DATES: Comments must be received by July 31, 1979. Proposed effective date of the AD will be September 21, 1979.

ADDRESSES: Send comments of this proposal in triplicate to: Regional Counsel, Attn. Docket 79-ASW-19, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Brantly service information may be obtained from Brantly-Hynes Helicopter, Inc., Box 697, Frederick, Oklahoma 73542 or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, Ext. 516.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed amendment to AD 68-4-4 by submitting such written or oral comments as they desire. Communications should identify the regulatory Docket Number and be submitted in triplicate to the address specified above. All comments will be recorded and considered by the Director before the effective date of the amendment and the amendment may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76101.

The Brantly Model B-2 series type design owner, Brantly-Hynes Helicopter, Inc., requested the FAA to specifically limit Amendment 39-557 (33 FR 3371), AD 68-4-4 (FAA Central Region Docket No. 68-CE-2-AD) to the tail rotor blades P/N 111-11, that use the spar, P/N 109. Tail rotor blade, P/N 111-11A, that uses spar, P/N D1783, has been previously approved and is considerably stronger in the spar critical area than the spar of

blade, P/N 111-11. Amendment 39-557, AD 68-4-4, was issued as a result of fatigue failure of a tail rotor at 494 hours' total time in service. Corrosion pitting in the thrust bearing boss relief radius of blade, P/N 111-11, contributed to the fatigue crack initiation.

Brantly-Hynes has noted the absence (of reports) of cracks in the Model B-2 series tail rotor blades since AD 68-4-4 was issued. They suggested that a 300-hour inspection interval specified in the maintenance manual would be sufficient to maintain airworthiness of the new design blade, P/N 111-11A (spar P/N D1738). The Brantly Model 305 helicopter tail rotor blades also use spars, P/N D1783. Brantly-Hynes noted no reports of cracked or corroded tail rotor blade spars have been received on this helicopter model. The FAA believes the small size of the Model 305 fleet, about 16 aircraft, is too small to make a reliable conclusion about the spar service history.

Therefore, in partial agreement with Brantly-Hynes, the FAA believes a 300-hour inspection interval specified in the AD for blades, P/N 111-11A, is necessary to detect possible corrosion and cracks in the tail rotor spar for the Model B-2 series helicopters.

In consideration of the foregoing, this notice proposes to amend Amdt. 39-557 (33 FR 3371), AD 68-4-4 by specifying in the compliance statement a 100-hour inspection interval for blades, P/N 111-11 (spar, P/N 109), and a 300-hour inspection interval for blades, P/N 111-11A (spar, P/N D1738), on Brantly Models B-2, B-2A, and B-2B helicopters. The AD applicability statement would also include helicopters certificated in all categories since the type of category in which the helicopter operates does not warrant relief from compliance with the AD and was probably overlooked whenever AD 68-4-4 was issued.

The AD is also being revised to reflect that the FAA Southwest Region and not the FAA Central Region is the current region responsible for Brantly type designs.

The 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 amending Amendment 39-557 (33 FR 3371), AD 68-4-4 as follows:

1. Revise the applicability statement to read as follows: Applies to Models B-2, B-2A, and B-2B helicopters, certificated in all categories (Airworthiness Docket No. 79-ASW-19).

2. Revise the compliance statement to read as follows:

For tail rotor blades, P/N 111-11, with 100 or more hours' time in service after February 27, 1968, compliance required prior to further flight, unless already accomplished, and, thereafter, at intervals not to exceed 100 hours' time in service from the last inspection. For tail rotor blades, P/N 111-11A, with 300 or more hours' time in service after August 15, 1979, compliance required prior to further flight, unless already accomplished, and, thereafter, at intervals not to exceed 300 hours' time in service from the last inspection.

3. Revise paragraph (a)(2) to delete phrase: " * * *, FAA, Central Region, Kansas City, Missouri * * *" and add phrase: " * * *, FAA, Southwest Region, Fort Worth, Texas 76101." (Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Texas, on June 14, 1979.

Paul J. Baker,
Acting Director, Southwest Region.

[FR Doc. 79-20002 Filed 6-27-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-GL-33]

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this federal action is to designate controlled airspace near St. Clairsville, Ohio to accommodate a new Very High Frequency Omnidirectional Range (VOR) instrument approach into Alderman Field Airport, St. Clairsville, Ohio established on the basis of a request from the Alderman Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before July 28, 1979.

ADDRESSES: Send comments on the proposal to the FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-33,

2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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 floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-33, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before July 28, 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, 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 Part 71) to establish a 700 foot controlled airspace transition area near St. Clairsville, Ohio. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (44 FR 442) the following addition should be made:

St. Clairsville, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Alderman Field Airport (latitude 40°03'25"N, longitude 80°57'48"W); within 1.5 miles either side of the Bellaire VORTAC 290° radial extending from the 5.5 mile radius to the VORTAC.

(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 CFR 11.61).

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 draft 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-33, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois, on June 13, 1979.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 79-20001 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Parts 71 and 73]

[Airspace Docket No. 79-EA-22]

Proposed Temporary Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate temporary restricted areas identified as R-5201A, R-5201B, R-5201C and R-5201D in the vicinity of Ft. Drum, N. Y., to contain military joint readiness exercise called "EMPIRE GLACIER 80." These proposed actions will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the area during the proposed designation period.

DATES: Comments must be received on or before July 30, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 79-EA-22, 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. 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, 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 July 30, 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 Rule Making (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 Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-5201A, R-5201B, R-5201C and R-5201D in the vicinity of Ft. Drum, N.Y., to contain military joint readiness exercise called "EMPIRE GLACIER 80." These restricted areas would also be included in the continental control area for the duration of its time of designation. This training exercise, "EMPIRE GLACIER 80" will involve close air support, interdiction, reconnaissance, electronic warfare, air combat tactics, tactical airlift, airborne drops, air-to-air refueling, search and rescue, and airborne command center operations. Total air traffic associated with this exercise is expected to exceed 100 sorties per day. Restricted Area is specified airspace within which the flight of aircraft, while not wholly prohibited, is subject to restriction. Most restricted areas are designated joint use and IFR/VFR operations in the areas may be authorized by the controlling ATC facility when it is not being utilized by the using agency. The controlling agency for R-5201A/B/C and D would be the FAA Boston ARTCC and the using agency would be 9th Air Force/DOX, Shaw AFB, Sumter, S.C. The United States Air Force is the lead agency for purposes of compliance with the National Environmental Policy Act. Comments on environmental aspects relating to the proposed temporary restricted airspace and/or activities to be conducted within the exercise area should be addressed to: Headquarters Tactical Air Command/DEEV, Langley AFB, Virginia 23665, ATTN: Mr. Gilbert Burnet, Telephone: (804) 764-4430/764-7844.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as

republished (44 FR 344 and 705) as follows:

§ 71.151 [Amended]

In § 71.151 the following temporary restricted areas are added for the duration of their times of designation from 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980:

- R—5201A Fort Drum, N.Y.
- R—5201B Fort Drum, N.Y.
- R—5201C Fort Drum, N.Y.
- R—5201D Fort Drum, N.Y.

§ 73.52 [Amended]

In § 73.52 the following temporary restricted areas are added:

- R—5201A Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°10'00" N., Long. 75°39'30" W.; to Lat. 44°28'00" N., Long. 75°21'00" W.; to Lat. 44°28'00" N., Long. 75°13'00" W.; to Lat. 44°26'00" N., Long. 75°09'00" W.; to Lat. 44°20'00" N., Long. 75°15'00" W.; to Lat. 44°11'00" N., Long. 75°17'00" W.; to Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 44°11'15" N., Long. 75°25'00" W.; to Lat. 44°15'15" N., Long. 75°31'00" W.; to point of beginning.

Designated altitudes. 100 feet AGL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

- R—5201B Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 43°51'15" N., Long. 75°33'30" W.; to Lat. 43°51'15" N., Long. 75°47'07" W.; to Lat. 44°05'47" N., Long. 75°44'30" W.; to Lat. 44°03'25" N., Long. 75°39'30" W.; to Lat. 44°00'45" N., Long. 75°37'25" W.; to point of beginning.

Designated altitudes. 6,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.

Controlling Agency. Federal Aviation Administration, Boston ARTCC.

Using Agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

- R—5201C Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°33'00" N., Long. 75°21'00" W.; to Lat. 44°36'00" N., Long. 74°40'00" W.; to Lat. 43°53'30" N., Long. 74°41'00" W.; to Lat. 43°45'00" N., Long. 74°46'50" W.; to Lat. 43°45'00" N., Long. 75°48'00" W.; to Lat. 43°51'15" N., Long. 75°47'07" W.; to Lat. 43°51'15" N., Long. 75°33'30" W.; to Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 44°11'00" N., Long. 75°17'00" W.; to Lat. 44°20'00" N., Long. 75°15'00" W.; to Lat. 44°26'00" N., Long. 75°09'00" W.; to Lat. 44°28'00" N., Long. 75°13'00" W.; to Lat. 44°28'00" N., Long. 75°21'00" W.; to Lat. 44°10'00" N., Long. 75°39'30" W.; to Lat. 44°05'47" N., Long. 75°44'30" W.; to point of beginning.

Designated altitudes. 3,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.

Controlling agency. Federal Aviation Administration, Boston ARTCC.
Using Agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

- R—5201D Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°36'00" N., Long. 74°40'00" W.; to Lat. 44°36'00" N., Long. 74°34'00" W.; to Lat. 44°21'30" N., Long. 74°30'00" W.; to Lat. 44°08'00" N., Long. 74°30'00" W.; to Lat. 43°53'30" N., Long. 74°41'00" W.; to point of beginning.

Designated altitudes. 13,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.

Controlling agency. Federal Aviation Administration, Boston ARTCC.
Using Agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1345(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 June 20, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-20000 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 570]

[Docket No. R-79-678]

Community Development Block Grants

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

§§ 570.612 and 570.613 [Amended]

This proposed rule would amend 24 CFR Part 570 by adding two new sections. The first § 570.612, would govern the administration of the use of block grant funds by eligible subrecipients. The second section § 570.613, would set forth guidelines for the disposition of real property under the block grant program.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C. June 21, 1979.
Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-19991 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 161]

[CGD 78-041]

Tank Vessel Operations—Puget Sound

AGENCY: U.S. Coast Guard, DOT.

ACTION: Extension of comment period on proposed rules.

SUMMARY: The Coast Guard published a proposed rule (CGD 78-041) in the Federal Register of April 12, 1979 (44 FR 21974), that would govern the operations of tank vessels in Puget Sound. In

addition to operating requirements the proposal would prohibit the operation of tank vessels over 125,000 deadweight tons in the Vessel Traffic Service Area. The comment period on the proposal ends June 30, 1979. At the time the proposal was published a Draft Environmental Impact Statement (DEIS) had been prepared, but due to printing delays had not yet been distributed. The DEIS was filed with the Environmental Protection Agency and released to the public on April 27, 1979. Several comments received to date on the proposal have indicated that, due to the technical nature and complexity of the studies and data discussed in that document, more time in preparing comments would be desirable.

Since the DEIS was not available throughout the entire comment period, because several comments requested more time to study the proposal and in order to allow for a full public participation in the rulemaking process, the Coast Guard is extending the comment period an additional 45 days.

DATES: Comments must be received on or before August 15, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-041), U.S. Coast Guard Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Captain R. A. Janecek, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202 426-1934.

(5 U.S.C. 553)

Dated: June 28, 1979.

Adm. J. B. Hayes,
Commandant, U.S. Coast Guard.

[FR Doc. 79-20107 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 1094-6]

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Industrial Steam Generators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA seeks comments on its plan to develop and implement new source performance standards for air pollutants from fossil-fuel-fired

industrial (non-utility) steam generators. The Clean Air Act, as amended, August 1977, requires the EPA to develop standards for categories of fossil-fuel-fired stationary sources. The standards will require application of the best systems of emission reduction for particulates, sulfur dioxide, and nitrogen oxides to new industrial steam generators.

DATES: Comments must be received on or before August 27, 1979.

ADDRESS: Comments should be submitted to the Central Docket Section (A-130), United States Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460, ATTN: Docket No. A79-02.

FOR FURTHER INFORMATION CONTACT: Stanley T. Cuffe, Chief, Industrial Studies Branch (MD-13), Emission Standards and Engineering Division, United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5295.

SUPPLEMENTARY INFORMATION: In December 1971, pursuant to Section 111 of the Clean Air Act, the Administrator promulgated standards of performance for particulate, sulfur dioxide, and oxides of nitrogen from new or modified fossil fuel fired steam generators with greater than 250 million BTU/hour heat input (40 CFR 60.60). Since that time, the technology for controlling these emissions has been improved. In August 1977, Congress adopted amendments to the Clean Air Act which specified that the Environmental Protection Agency develop standards of performance for categories of fossil-fuel-fired stationary sources. The standards are to establish allowable emission limitations and require the achievement of a percentage reduction in the emissions. EPA is required to consider a broad range of issues in promulgating or revising a standard issued under Section 111 of the Clean Air Act.

Pursuant to the requirements of the Act, EPA developed and proposed on September 19, 1978, a revised standard applicable to fossil-fuel-fired utility boilers with heat input greater than 250 MM BTU/hour.

Development of Industrial Boiler Standard

In June 1978, the Agency initiated a program to develop standards which would apply to all sizes and categories of industrial (non-utility) fossil-fuel-fired steam generators. In this program, the Agency is studying the technological, economic, and other information needed to establish a basis for standards for particulate, sulfur dioxide and oxides of

nitrogen emissions from fossil-fuel-fired steam generators. Pertinent information is being gathered on eight technologies for reducing boiler emissions: oil cleaning and existing clean oil, coal cleaning and existing clean coal; synthetic fuels; fluidized bed combustion; particulate control; flue gas desulfurization; NO_x combustion modifications; and NO_x flue gas treatment. The studies for each technology will discuss the characteristics, emission reduction methods and potential control costs, energy and environmental considerations and emission test data. A status report on the studies was presented to the National Air Pollution Control Techniques Advisory Committee (NAPCTAC), on January 11, 1979. Future presentations to the NAPCTAC will be announced in the Federal Register. The final technological and economic documentation necessary to support the standards is scheduled for completion by June 1980. Interested persons are invited to participate in Agency efforts by submitting written data, opinions, or arguments as they may desire. The Agency is specifically interested in information on the following subjects.

a. Should one standard be proposed for all industrial applications or should standards be set for separate industrial categories?

b. Should a single standard be proposed for all sizes of industrial boilers or should several standards be proposed for various boiler size categories?

c. Should emerging technologies such as solvent refined coal, fluidized bed combustion, and synthetic natural gas be exempt from industrial boiler standards, should they have separate standards, or should they be required to meet the same standards as conventional boilers burning natural fuels?

d. Will enforcement of standards at cogeneration facilities present special problems which should be considered?

e. How prevalent is the use of lignite and anthracite coal in industrial boilers?

f. Are there special problems which should be considered when controlling particulate, SO_x, or NO_x emissions from combustion of lignite or anthracite coals?

Dated: June 13, 1979.

Douglas M. Costle,
Administrator.

[FR Doc. 79-20058 Filed 6-27-79; 8:45 am]

BILLING CODE 6560-01-M

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

[44 CFR Part 67]

[Docket No. FI-5591]

**National Flood Insurance Program;
Proposed Flood Elevation
Determinations for City of Fort Payne,
De Kalb County, Ala.****AGENCY:** Office of Federal Insurance and
Hazard Mitigation, FEMA.**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Fort Payne, De Kalb County, Alabama. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Fort Payne, Alabama. Send comments to: Honorable Fred Purdy, Mayor, City of Fort Payne, City Hall, Fort Payne, Alabama 35967.

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 proposed determinations of base (100-year) flood elevations for the City of Fort Payne, Alabama, 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Wills Creek	State highway 35*	622
	Airport Avenue Second Crossing*	627
	24th Street*	654
	U.S. Highway 11 (100 feet)**	663
	67th Street North (100 feet)**	695
Little Wills Valley Branch	41st Street South*	658
Davis Gap Creek	Interstate Highway 59 Southbound Lane (25 Feet)***	732
	Interstate Highway 59 Northbound Lane (25 feet)**	800
	Grand Avenue (100 feet)**	875
	Southern Railway (50 feet)***	879
	Southern Railway (25 feet)**	884
Dye Creek	Airport Avenue*	815
	Interstate Highway 59 Southbound Lane*	819
	Interstate Highway 59 Northbound Lane*	826
	State Highway 35 First Crossing (75 feet)**	829
	U.S. Highway 11*	860
Beeson Branch	3rd Street South*	863
	5th Street North (50 feet)**	896
	Airport Avenue*	846
	Interstate Highway 59 Northbound Lane*	881
	U.S. Highway 11*	908
Beeson Branch Tributary	Southern Railway (100 feet)**	918
	Confluence With Beeson Branch	917
Sulphur Springs Branch	49th Street North*	907
Sulphur Springs Tributary A	Gault Avenue (25 feet)**	912
Allen Branch	67th Street North*	894
	Allen Dam (250 feet)***	901
	Allen Dam (100 feet)**	926
	Abandoned Road*	926

*Centerline.

**Upstream from centerline.

***Downstream from centerline.

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19791 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5592]

**National Flood Insurance Program;
Proposed Flood Elevation
Determinations for Town of Strong,
Franklin County, Maine****AGENCY:** Office of Federal Insurance and
Hazard Mitigation, FEMA.**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Strong, Franklin County, Maine.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Strong, Maine 04983. Send comments to: Mr. George Lewis, First Selectmen, Town of Strong, Town Hall, Board of Selectmen, Strong, Maine 04983.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. 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 proposed determination of base (100-year) flood elevations for the Town of Strong, Franklin County, Maine, 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 44 CFR Part 67.4 (a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of Flooding	Location	Elevation in feet, (national geodetic vertical datum)
Sandy River.....	Downstream corporate limits ..	385
	At confluence of McLeary Brook.	401
	At confluence of Skillens Brook.	416
	Just upstream of State Route 145.	443
Valley Brook.....	Upstream corporate limits	462
	Just upstream of abandoned railroad bed.	457
	Approximately 350 feet upstream of State Route 149.	470
	At confluence of Bean Brook.	485
Bean Brook.....	Approximately 125 feet upstream of State Route 145.	516
	Approximately 3,300 feet upstream of State Route 145.	536
	Confluence of Doctor Brook ..	504
	Approximately 5,725 feet downstream of West Freeman Road.	530
	Just upstream of West Freeman Road.	566
	Upstream corporate limits	566

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19782 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5593]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Town of Walkersville, Frederick County, Md.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Walkersville, Frederick 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Walkersville, Maryland. Send comments to: Honorable Orley R. Bourland, Burgess of the Town of Walkersville, 3 Pennsylvania Avenue, Walkersville, Maryland 21793.

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 proposed determinations of base (100-year) flood elevations for the Town of Walkersville, Frederick County, Maryland 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by §60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Glade Creek.....	Fountain Rock Road (Upstream Side).	283
	Farm Road	283
	Private Drive (3,200 feet upstream of Fountain Rock Road).	207
	Biggs Ford Road (Upstream Side).	269
	Driveway to Microbiological Lab (5,800 feet upstream of Fountain Rock Road).	293
Dublin Branch	Private Road (approximately 1,900 feet upstream of driveway to Microbiological Lab).	293
	300 feet upstream of driveway to Microbiological Lab).	296
	Confluence with Glade Creek	283
	Farm Road (700 feet upstream of confluence) (Upstream Side).	200
	Biggs Ford Road.....	283

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19793 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5594]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Town of Medway, Norfolk County, Mass.

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

ACTION: PROPOSED RULE.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Medway, Norfolk County, Massachusetts. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Selectmen, 155 Village Street, Medway, Massachusetts. Send comments to: Mr. Paul Desimore, Chairman of the Board of Selectmen of Medway, Town Office, 155 Village Street, Medway, Massachusetts 02053.

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 proposed determinations of base (100-year) flood elevations for the Town of Medway, Norfolk County, Massachusetts 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Charles River	Downstream Corporate Limits	138
	Factory Dam (Downstream)	154
	Factory Dam (Upstream)	164
	West Medway Dam (Upstream)	176
Chicken Brook	Upstream Corporate Limits	184
	Confluence with Charles River	171
	Main Street Culvert (Downstream)	179
	Main Street Culvert (Upstream)	189
Hopping Brook	Park Pond	165
	Upstream Corporate Limits	222
	Confluence with Charles River	184
	West Street (Downstream)	204
Tributary to Great Black Swamp	West Street (Upstream)	209
	Limit of Detailed Study	220
	Downstream Corporate Limits	199
	State Route 169 Culvert (Upstream)	143
	Limit of Detailed Study	145

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18794 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5595]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Township of North Brunswick, Middlesex County, N.J.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of North Brunswick, Middlesex County, New Jersey. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a

newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Engineering Department, Municipal Building, North Brunswick, New Jersey. Send comments to: Honorable Charles Nicola, Mayor of North Brunswick, Municipal Building, North Brunswick, New Jersey 08902.

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 proposed determinations of base (100-year) flood elevations for the Township of North Brunswick, Middlesex County, New Jersey 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 44 CFR 67.4(a)

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lawrence Brook	Downstream Corporate Limits	25
	Upstream Ryders Lane Bridge	26
	Upstream Riva Avenue Bridge	33
	Downstream Farrington Dam	36
Sucker Brook	Upstream Farrington Dam	53
	Upstream Corporate Limits	55
	Confluence with Lawrence Brook	35
	Bridge Ruins	39

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream Utility Road Culvert	48
	Upstream of Retaining Wall	58
	At confluence of Tributary to Sucker Brook	60
Tributary No. 1 to Sucker Brook	Confluence with Lawrence Brook	60
	U.S. Route 130	78
Maio Brook	Confluence with Lawrence Brook	55
	Downstream U.S. Route 130 Culvert	73
	Church Lane Extended	91
	Downstream Farm Road Culvert	101
	Downstream Adams Station Lane	107
Oakys Brook	Confluence with Lawrence Brook	55
	950' downstream of Davidsons Mill Road Bridge	75
	Downstream Davidsons Mill Road Bridge	80
	Downstream U.S. Route 130 Bridge	88
	Upstream Private Road	90
	Upstream Conrail Bridge	93
	Upstream Diversion Channel	100
	Downstream U.S. Route 1	106
Sixmile Run	Downstream Corporate Limits	73
	Upstream Hidden Lake Drive	80
	Upstream Schmidt Lane Bridge	85
	Downstream Cozens Lake Bridge	91
	Seneca Road Extended	102
Mill Run	Downstream Remsen Avenue Culvert	71
	Upstream Cemetery Road Bridge	77
	Upstream Commercial Avenue Culvert	85
	Upstream Cemetery Road Bridge	87

(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; 41 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19795 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5596]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Village of Aurora, Cayuga County, N.Y.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the

Village of Aurora, Cayuga County, New York. 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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review on the Village Bulletin Board, Main Street, Aurora, New York. Send comments to: Honorable Charles Snyder, Mayor of Aurora, P.O. Box 172, Aurora, New York 13026.

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 proposed determinations of base (100-year) flood elevations for the Village of Aurora, Cayuga County, New York 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pa nes Creek	Confluence with Cayuga Lake	388
	State Route 80	387
	Upstream Corporate Limits	399

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19788 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5597]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Township of Athens, Bradford County, Pa.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Athens, Bradford County, Pennsylvania. 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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Sayre, Pennsylvania. Send comments to: Mr. Clay Tuttle, President of the Board of Supervisors of Athens, Box 276, Athens, Pennsylvania 16810.

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 proposed determinations of base (100-year) flood elevations for the Township of Athens, Bradford County, Pennsylvania 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Downstream Corporate Limits	750
	Susquehanna Street	769
	Confluence of Cayuta Creek	767
	Upstream Corporate Limits	773
Chemung River	Confluence with Susquehanna River	753
	Tioga Street (Upstream)	758
	U.S. Route 220 Bypass	762
	State Route 424	774
Buck Creek	Confluence of Orcutt Creek	797
	Conrail Downstream	750
	Conrail Upstream	757
Cayuta Creek	U.S. Route 220	759
	Conrail	767
	Corporate Limits	769
Satterlee Creek	Riverside Drive	768
	Moore Road	828
	Corporate Limits	902
Dry Brook	Private Road	778
	Corporate Limits	785
Murray Creek	Conrail	754
	Collins Road	844
	Tributary No. 2	956

(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: June 18, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
(FR Doc. 79-19787 Filed 6-27-79; 8:45 am)
BILLING CODE 4210-23-M

[4 CFR Part 67]

[Docket No. FI-5596]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Township of Eaton, Wyoming County, Pa.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Eaton, Wyoming County, Pennsylvania.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Murach, Township Secretary, R.D. 2, Tunkhannock, Pennsylvania. Send comments to: Mrs. Frederick Jadick, Chairperson of the Township of Eaton, R.D. 5, Tunkhannock, Pennsylvania 18657.

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 proposed determinations of base (100-year) flood elevations for the Township of Eaton, Wyoming County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat., 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Corporate Limits	590
	Confluence of Tributary No. 1	596
	Confluence of Bowman Creek	606
	State Routes 29 and 309 (Upstream)	617
Bowman Creek	Corporate Limits	625
	Confluence with Susquehanna River	606
	Township Route 413	613
	Pennsylvania State Routes 5, 29 and 30 (Downstream)	628
	Confluence of Tributary No. 2	632
	Legislative Route E5004 (Downstream)	647
	Legislative Route E5004 (Upstream)	654
	State Routes 29 and 308	676
Confluence of Marsh Creek	723	
	Corporate Limits	742
	Limit of flooding affecting community (200 feet upstream of Corporate Limits)	747

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 [33 FR 17604, 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: June 18, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
(FR Doc. 79-19768 Filed 6-27-79; 8:45 am)
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5599]

**National Flood Insurance Program;
Proposed Flood Elevation
Determinations for Borough of Jessup,
Lackawanna County, Pa.****AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Jessup, Lackawanna County, Pennsylvania. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, 2nd Street, Jessup, Pennsylvania. Send comments to: Mr. Michael Arnoni, President of the Borough Council of Jessup, 1121 Blakely Street, Jessup, Pennsylvania 18434.

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 proposed determinations of base (100-year) flood elevations for the Borough of Jessup, Lackawanna County, Pennsylvania 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by §60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River.....	Confluence of Sterry Creek.....	794
	Pa. Route 247.....	808
	Confluence of Grassy Island Creek.....	837
	River Street.....	851
	Upstream Corporate Limits.....	864
Sterry Creek.....	Confluence with Lackawanna River.....	794
	Delaware Hudson Railway Downstream.....	796
	Delaware Hudson Railway Upstream.....	810
	Downstream Corporate Limits (near Powder Mill Road).....	816
	Upstream Corporate Limits.....	868
Grassy Island Creek....	Upstream Corporate Limits (cross section R) (near CONRAIL).....	903
	Confluence with Lackawanna River.....	837
	Delaware Hudson Railway Downstream.....	847
	Delaware Hudson Railway Upstream.....	857
	Unpaved Road Downstream.....	875
	Unpaved Road Upstream.....	883
	Delaware Hudson Railway and Breaker Street (40' approximately) Downstream.....	886
	Delaware Hudson Railway and Breaker Street Upstream.....	909
	Approximately 1,850 feet upstream of Delaware Hudson Railway and Breaker Street.....	958

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19799 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5600]

**National Flood Insurance Program;
Proposed Flood Elevation
Determinations for Township of Mount
Pleasant, Columbia County, Pa.****AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Mount Pleasant, Columbia County, Pennsylvania.

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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Bloomsburg, Pennsylvania. Send comments to: Mr. Harvey R. Oman, Chairman of the Township of Mount Pleasant, R.D. 4, Bloomsburg, Pennsylvania 17815

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 proposed determinations of base (100-year) flood elevations for the Township of Mount Pleasant, Columbia County, Pennsylvania 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Creek	Corporate Limits (Downstream)	497
	Legislative Route 239	500
	Conrail (Upstream)	519
	Legislative Route 19026	535
	Corporate Limits (Upstream)	556
Little Fishing Creek	Legislative Route 239 (Upstream)	501
	Covered Bridge No. 69 (Upstream)	519
	Township Route 519 (Downstream)	544
	Township Route 519 (Upstream)	549
	Legislative Route 19058 (Upstream)	556
Appleman's Run	Pennsylvania State Route 42 (Upstream)	574
	Conrail (Downstream)	580
	Corporate Limits (Upstream)	582
	Corporate Limits (Upstream)	516

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19800 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5601]

National Flood Insurance Program; Proposed Flood Elevation Determination for Township of Nippenose, Lycoming County, Pa.

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

ACTION: PROPOSED RULE.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Nippenose, Lycoming

County, Pennsylvania. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Nippenose Township Office, Antes Fort, Pennsylvania. Send comments to: Mr. Henry Hauser, Chairman of the Township of Nippenose, Antes Fort, Pennsylvania 17720.

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 proposed determinations of base (100-year) flood elevations for the Township of Nippenose, Lycoming County, Pennsylvania 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer in insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River	Corporate Limits (Downstream)	544
	Pennsylvania Route 44 (Upstream)	551
Antes Creek	Corporate Limits (Upstream)	554
	Legislative Route 41068	552
	Conrail (Downstream)	552
	Conrail (Upstream)	570
	Private Bridge	617
	Corporate Limits (Upstream)	624

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19801 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5602]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Township of South Strabane, Washington County, Pa.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of South Strabane, Washington County, Pennsylvania. 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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, 550 Washington Road, Washington, Pennsylvania. Send comments to: Mr. William Orndoff, Chairman of the Board of Supervisors, of

South Strabane, 550 Washington Road, Washington, Pennsylvania 15301.

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 proposed determinations of base (100-year) flood elevations for the Township of South Strabane, Washington County, Pennsylvania 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Charters Creek..	Downstream 300 feet from 84 DR.	993
	Downstream Rouse Road	999
	Upstream Rankin Road	1,014
	Upstream Roberts Road	1,036
Tributary 4	Downstream U.S. Route 40 ...	1,076
	Downstream 500 feet from Abandoned Railroad.	997
	Upstream 4,800 feet from Clokey Road.	1,011
Chartiers Creek.....	Upstream 8,000 feet from Clokey Road.	1,018
	Downstream 200 feet LR 62092.	973
	Upstream Country Club Road	984
	Upstream North Main Street Exit.	990
	Upstream 200 feet from Conrail.	999

(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 121217, 44

FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19802 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5603]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Borough of Tremont, Schuylkill County, Pa.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Tremont, Schuylkill County, Pennsylvania. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, Main Street, Tremont, Pennsylvania. Send Comments to: Honorable Paul Hummel, Mayor of Tremont, 21 Spring Street, Tremont, Pennsylvania 17981.

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. 20510.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Tremont, Schuylkill County, Pennsylvania 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Good Spring Creek	Downstream Corporate Limits.	753
	East Line Street—Upstream ..	762
	East Main Street—Upstream.	787
	Footbridge 480 feet downstream of North Pine Street—Upstream.	769
	North Pine Street—Upstream	760
	North Pine Street—Upstream	770
	Washington Street—Upstream.	780
	Upstream Corporate Limits	814

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19803 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5604]

National Flood Insurance Program; Proposed Flood Elevation Determinations for City of Glen Dale, Marshall County, W. Va.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed

base (100-year) flood elevations listed below for selected locations in the City of Glen Dale, Marshall County, West Virginia. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Building, 402 Wheeling Avenue, Glen Dale, West Virginia. Send comments to: Honorable Howard L. Byard, Mayor of Glen Dale, 402 Wheeling Avenue, Glen Dale, West Virginia 26038.

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 proposed determinations of base (100-year) flood elevations for the City of Glen Dale, Marshall County, West Virginia 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Upstream Corporate Limits	654
	Downstream Corporate Limits	653
Little Grave Creek	Lindy Lane	674
	Upstream Corporate Limits	666
	Downstream Corporate Limits	652

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19804 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5605]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Town of Isle LaMotte, Grand Isle County, Vt.

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Isle LaMotte, Grand Isle County, Vermont. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Isle LaMotte, Vermont. Send comments to: Mr. Leonard A. Bonneville, Chairman of the Board of, Selectmen of Isle LaMotte, Town Office, Isle LaMotte, Vermont 05463.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. 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 proposed determination of base (100-year) flood elevations for the Town of Isle LaMotte, Grand Isle County, Vermont 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 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Champlain	Entire Shoreline	102

(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: June 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-19805 Filed 6-27-79; 8:45 am]
BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5607]

Proposed Flood Elevation Determinations for the Township of Casco, Allegan County, Mich., Under the National Flood Insurance Program

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Casco, Allegan 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Zoning Administrator, 6800 109th Avenue, South Haven, Michigan. Send comments to: Mr. Rankin Lyman, Township Supervisor, Township of Casco, Route 4, South Haven, Michigan 49090.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. 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 proposed determination of base (100-year) flood elevations for the Township of Casco, Allegan County, Michigan, 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 44 CFR Part 67.4 (a).

These elevations, together with the flood plain management measures required by section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Fork Black River.	Just upstream confluence with North Branch Black River.	588
North Branch Black River.	Just downstream 70th Street.	589
	At downstream southern corporate limits.	585
	About 250 feet upstream of Baseline Road.	586
	400 feet upstream confluence of Middle Fork Black River.	588

(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 19387; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 19, 1979.
 Gloria M. Jimenez,
Federal Insurance Administrator.
 [FR Doc. 79-20076 Filed 6-27-79; 8:45 am]
 BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5606]

Proposed Flood Elevation Determinations for the city of Naples, Collier County, Fla., Under the National Flood Insurance Program

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Naples, Collier County, Florida. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 735 Eighth Street South, Naples, Florida. Send comments to: Mr. George Patterson, City Manager, City of Naples, City Hall, 735 Eighth Street South, Naples, Florida 33940.

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 proposed determinations of base (100-year) flood elevations for the City of Naples, Florida, 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico	Neopolitan Way (entire street).	12
	Crayton Road between Harbour Drive and Mooring Line Drive.	12
	Coral Drive (entire street)	11

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Admiralty Parade East (entire street).	11
	18th Avenue South between 4th Street and 8th Street.	10
	8th Street between 12th Avenue South and 8th Avenue South.	9

(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: June 15, 1979.
 Gloria M. Jimenez,
 Federal Insurance Administrator.
 [FR Doc. 79-20075 Filed 6-27-79; 8:45 am]
 BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5608]

Proposed Flood Elevation Determinations for the City of Amory, Monroe County, Miss., Under the National Flood Insurance Program

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Amory, Monroe 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Zoning Administrator, City Hall, Amory, Mississippi. Send comments to: Mayor Billy Glasgow, City Hall, P.O. Box 6, Amory, Mississippi 38821.

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 proposed determinations of base (100-year) flood elevations for the City of Amory, Monroe County, Mississippi, 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 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program, regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stream 1	Just upstream of State Highway 25.	233
	Just upstream of the St. Louis-San Francisco Railroad.	244
	U.S. Highway 278.	249
	Just upstream of Tschudi Road.	267
Roundhouse Branch	Just downstream of 103th Street.	224
	Just downstream of Avenue I.	232
	Just upstream of Main Street.	233
	Intersection of Mulberry Street and Boulevard Drive.	241
	Confluence with Burkett's Creek Tributary 1.	244
Burkett's Creek	Just upstream of State Highway 254 (Main Street).	227
	Just upstream of Cowden Drive.	234
	Boulevard Drive.	240
	Just upstream of the Mississippian Railroad.	245
Burkett's Creek Tributary 1.	Confluence with Burkett's Creek (Boulevard Drive near Highland Circle).	240
	Mississippian Railroad.	241
	Just upstream of Hatley Road.	253
	Just upstream of Tschudi Road.	253
Tombigbee River	Black Cat Road	222

(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: June 20, 1979.

Gloria M. Jimenez,
 Federal Insurance Administrator.

[FR Doc. 79-20077 Filed 6-27-79; 8:45 am]

BILLING CODE 4210-23-M

Notices

Federal Register

Vol. 44, No. 126

Thursday, June 28, 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

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the third calendar quarter of 1979.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and

0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect: (1) Exceeds 16.0 cents, the fee then in effect shall be decreased by one cent; or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. The fee, in any event, may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound.

The average of the daily spot (world) price quotations for raw sugar for the applicable period prior to the third calendar quarter of 1979 has been calculated to be 7.93 cents per pound. This results in a fee of 3.36 cents per pound for item 956.15 [15.0 cents - (7.93 cents average spot price + 2.81 cents duty + .90 cents attributed costs) = 3.36 cents]. Accordingly, the fee for items 956.05 and 957.15 for the third calendar quarter of 1979 is 3.88 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the Federal Register prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the third calendar quarter of 1979 shall be as follows:

Item	Fee
956.05	3.88 cents per lb.
956.15	3.36 cents per lb.
957.15	3.88 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of Headnote 4.

Signed at Washington, D.C. on June 25, 1979.

Bob Bergland,
Secretary of Agriculture.

[FR Doc. 79-20081 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-10-M

Soil Conservation Service

Truax Creek Watershed, Michigan; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Truax Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Truax Creek Watershed, Alpena and Montmorency Counties, Michigan.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project being deauthorized concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include accelerated land treatment, and 7 miles of multi-purpose channel work for flood prevention and drainage.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental

assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, 517-372-1910, Ext. 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register (August 27, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: June 20, 1979.

Joseph W. Haas,
*Assistant Administrator for Water Resources,
Soil Conservation Service.*

[FR Doc. 79-20026 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-16-M

Little River Watershed, Michigan; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Little River Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Little River Watershed, Menominee County, Michigan.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project being deauthorized concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include land treatment and 5.7 miles of multipurpose flood prevention and drainage channel work.

The notice of intent not to file an environmental impact statement has

been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, 517-372-1910, Ext. 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register (August 27, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: June 20, 1979.

Joseph W. Haas,
*Assistant Administrator for Water Resources,
Soil Conservation Service.*

[FR Doc. 79-20027 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-16-M

Fowlerville Drain Watershed, Michigan; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Fowlerville Drain Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Fowlerville Drain Watershed, Livingston County, Michigan.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project being deauthorized concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include land treatment, 1 mile of single purpose flood prevention channel work, 1.8 miles of multipurpose

flood prevention and drainage channel work and one single purpose floodwater retarding structure.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, 517-372-1910, Ext. 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register (August 27, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: June 20, 1979.

Joseph W. Haas,
*Assistant Administrator for Water Resources,
Soil Conservation Service.*

[FR Doc. 79-20028 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-16-M

Tebo-Erickson Watershed, Michigan; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Tebo- Erickson Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Tebo-Erickson Watershed, Bay County, Michigan.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project being deauthorized concerns a plan for watershed

protection, flood prevention, and drainage. The planned works of improvement include accelerated land treatment and 23.1 miles of multipurpose channel work for flood prevention and drainage.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, 517-372-1910, Ext. 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register. (August 27, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: June 20, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20029 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-16-M

Ecletto Creek Watershed, Texas; Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Ecletto Creek Watershed, Guadalupe, Wilson, Karnes, and DeWitt Counties, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project or measure concerns a plan for stabilizing critical sediment source areas. The planned work includes land treatment measures such as clearing, preparation for vegetation, shaping, vegetating, fertilizing, fencing and construction of appurtenant grade stabilization structures needed to stabilize about 1,400 acres.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, Temple, Texas 76501, 817-774-1255. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication (July 30, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: June 19, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20030 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-16-M

Farmers Creek Watershed, Texas; Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Farmers Creek Watershed, Montague County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for installing four debris basins necessary to stabilize critical sediment source areas.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, Temple, Texas 76501, 817-774-1255. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication (July 30, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: June 19, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20031 Filed 6-27-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket No. 35810; Order 79-6-144]

Swiss Air; Order of Suspension and Investigation Regarding Fuel-Related Increases in United States-Switzerland Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of June 1979.

By tariff revisions filed May 25, 1979, the Swiss Air Transport Co., Ltd. (Swissair), has proposed 4-5 percent increases in normal economy fares from Switzerland to the United States. To compensate for increased fuel costs, Swissair's proposal would increase the one-way normal economy fares from Basle/Geneva/Zurich to Boston/Chicago/New York by approximately \$22 (FCU 21) in the peak season and \$18 (FCU 17) during the basic season, effective June 24, 1979. Eastbound fares would remain at present levels.

We will suspend Swissair's proposed increases for the same reasons we have suspended increases in normal economy fares in other markets where restrictive aviation agreements prevent effective

competition at the normal fare level.¹ We have repeatedly expressed our concern about the generally high level of transatlantic normal fares, and although competitive pricing now exists in a number of U.S.-Europe markets, the restrictive bilateral agreement between the United States and Switzerland remains in force. Fares must still be approved by both governments, and in other respects, most notably restricted opportunities for new carrier entry, the Swiss agreement contains none of the liberalizations of recently negotiated bilaterals such as those with Belgium, Germany, and the Netherlands. We will therefore follow the same policy here as we have in most other North Atlantic markets, were we recently allowed increases in first-class and promotional fares but suspended increases in normal economy fares.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801, and 1002(j) thereof:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the Appendix hereof, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions, rules, regulations or practices;

2. Pending hearing and decision by the Board, we hereby suspend the tariff provisions specified in the attached Appendix² and defer their use from June 24, 1979, to and including June 23, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President³ and it shall become effective on June 24, 1979; and

4. We shall file a copy of this order in the aforesaid tariff and serve it upon Swiss Air Transport Co., Ltd.

We shall publish this order in the *Federal Register*.

By the Civil Aeronautics Board.

Phyllis T. Kaylor.⁴

Secretary.

(FR Doc. 79-23353 Filed 6-27-79; 8:45 am)

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12 Noon and will end at 4:00 pm, on July 17, 1979, at Human Relations Conference Room, Delaware State Building, 820 North French Street, Wilmington, Delaware 19801.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss various civil rights issues in Delaware.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 25, 1979.

John I. Binkley,

Advisory Committee Management Officer.

(FR Doc. 79-23128 Filed 6-27-79; 8:45 am)

BILLING CODE 6335-01-M

Missouri 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 Missouri Advisory Committee (SAC) of the Commission will convene at 11:00 a.m. and will end at 3:00 p.m., on July 18, 1979, at Muehlebach Hotel, 12th and Baltimore, Kansas City, Missouri 64105.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is for reviewing and planing the 4-state advisory committee activity for FY 81.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

⁴All members concurred except member Schaffer who did not participate.

Dated at Washington, D.C., June 25, 1979.

John I. Binkley,

Advisory Committee Management Officer.

(FR Doc. 79-23128 Filed 6-27-79; 8:45 am)

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Columbia University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Education, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735), Washington, D.C.

Docket Number: 79-00152. Applicant: Columbia University, Department of Neurology, 630 West 168th Street, New York, N.Y. 10032. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter, Sweden. Intended use of Article: The article is intended to be used to prepare biopsy materials for electron microscopic examination. The experimental work will include studies of (1) the uptake of calcium by the sarcoplasmic reticulum of single chemically skinned skeletal muscle fibers; (2) examination of various animal and human muscle fibers in which the transverse tubular system has been impregnated with silver stains, to render it electron-opaque so that its three dimensional distribution can be determined; (3) examination of single chemically-skinned muscle fibers in various states of contraction; (4) studies of the structural changes produced in animal muscle by various drug treatments; (5) studies of the role of satellite cells in muscle regeneration; and (6) structural changes induced by viral infections.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The model MT-5000 ultramicrotome

¹See, for example, Orders 79-5-218, May 17, 1979; 78-10-143, October 20, 1978; and 78-10-61, October 5, 1978.

²Appendix filed as part of the original document.

³We submitted this order to the President on June 13, 1979.

manufactured by Sorvall Instruments Division of E. I. DuPont de Nemours and Co. (Inc.) (Sorvall) which became available on April 24, 1979, has a cutting speed range of 0.1 to 39.9 millimeters per second (mm/sec). However, at the time the foreign article was ordered the most closely comparable domestic instrument was Sorvall's Model MT-2B ultramicrotome. The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 19, 1979 that (1) cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-20034 Filed 6-27-79; 8:45 am]
BILLING CODE 3510-25-M

DHEW/PHS/CDC/NIOSH/TAFT Labs.; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1968 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket Number: 79-00172. Applicant: DHEW/PHS/CDC/NIOSH, Division of Biomedical and Behavioral Science, Biological Support Branch, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Article: Accessories For Transmission Electron Microscope, Model JEM 100CX, consisting of 50A-LNB, Liquid Nitrogen Baffle for Oil Diffusion Pump, 100CX-120KV Accelerating Voltage Capability, and Hard X-Ray, Conventional Type.

Manufacturer: JEOL Ltd., Japan. Intended Use of Article: The articles are accessories to an existing electron microscope which will be used to examine laboratory animal tissue, human biopsy tissue, and particulate samples. A major objective of the electron microscopy work is to relate the observed morphologic alterations seen in tissue to the exposure of the subject to specific chemicals, particles or fibers. Specific studies will include the identification of fibers, if any, present in silica and substitutes used in foundry operations, determination of tissue ultrastructure and/or morphology changes due to exposure to suspected toxic agents, and determination of particulate size for various dusts (e.g., asbestos fibers, antimony ores, thallium oxide) presently being used in inhalation toxicology experiments.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 10, 1979 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses. The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-20032 Filed 6-27-79; 8:45 am]
BILLING CODE 3510-25-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c)

of the Educational, Scientific, and Cultural Materials Importation Act of 1968 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735), Washington, D.C.

Docket No. 79-00131. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Backward-Wave Oscillator Tube, Type RWO-50, Power Output 150 mW. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in radio astronomy investigations for observations of the emission of various rotational-state spectral line emissions, including the water-vapor line at 22.235 GHz; the array of ammonia lines at 23.694, etc. GHz; the methanol lines at 24.010, etc. GHz; and a variety of other lines in the region between 20.0 and 27.0 GHz.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a frequency range of 33 to 55 gigahertz which is capable of being electronically tuned. The National Bureau of Standards advises in its memorandum dated May 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-20037 Filed 6-27-79; 8:45 am]
BILLING CODE 3510-25-M

National Center for Toxicological Research, DHEW: Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulation issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735), Washington, D.C.

Docket No. 79-00128. Applicant: National Center for Toxicological Research, Jefferson, AR 72079. Article: LKB 14800-3 CryoKit and Cryotools. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of elemental distribution within the individual tissue cells (from mammalian sources) using ultracryotomy followed by energy dispersive x-ray microanalysis. The primary experiment is a study of the ultrastructural toxicology of methyl mercury and effects of selenium intake on the manifestations of methyl mercury toxicity.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 19, 1979 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-20038 Filed 6-27-79; 8:45 am]

BILLING CODE 3510-25-M

University of North Carolina/Chapel Hill; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735) Washington, D.C.

Docket No. 79-00166. Applicant: University of North Carolina at Chapel Hill, 231H Fac. Lab. Off. Building, University of North Carolina, Chapel Hill, N.C. 27514. Article: Rotating Anode X-Ray Generator complete with Accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used to record diffraction data of biochemical specimens and single protein crystals using film and detector methods in an attempt to learn about three dimensional structure of proteins and nucleic acids.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a focused spot of minimal size (0.1mm x 1mm) and a rotating target for maximum x-ray beam intensity. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated May 10, 1979 that the capabilities described above are pertinent to the purposes for which the article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-20033 Filed 6-27-79; 8:45 am]

BILLING CODE 3510-25-M

University of Kansas; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735) Washington, D.C.

Docket No. 79-00146. Applicant: The University of Kansas College of Health Sciences and Hospital, 39th and Rainbow Blvd., Kansas City, Kansas 66103. Article: G3100 C Therac 40 Sagittaire 40 MeV Medical Linear Accelerator with Treatment Couch and Open Section Stretcher. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of Article: This article is intended to be used to reach and treat deep lying cancers. The patients so treated will be evaluated over the next several years and the response of the cancers as well as the incidence of complications will be evaluated and compared to those patients treated by conventional means. The article will also be used to teach radiation therapists and medical physicists the dosimetric and clinical procedures for correction prescription of patients with high-energy radiation.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a maximum energy of 40 million electron volt (MeV) with a precision of ± 0.2 MeV at all energy levels. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 10, 1979 that the most closely comparable domestic instrument, the Clinac 35, does not match the homogeneity of energy in the electron beam of the foreign article or provide 40 MeV capability. HEW also

advises that maximum homogeneity of energy in the electron beam and 40 MeV capability are pertinent to the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-20036 Filed 6-27-79; 8:45 am]

BILLING CODE 3510-25-M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735), Washington, D.C.

Docket No. 79-00129. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: 25-64 mm Dia. Phosphate Laser Rods and 20-90 mm Dia. Phosphate Laser Rods. Manufacturer: Hoya Optics Corporation, Japan. Intended use of Article: The article is intended to be used in the construction of a high peak power twenty-four beam line laser system which will be used to perform scientific experiments on the feasibility of generating energy via laser-induced thermo-nuclear fusions. The laser system will be used as a match, igniting a fuel pellet which then burns like the sun emitting energetic particles which can heat a fluid and thereby generate electricity. The long term objective of present experiments is to determine whether one can generate significantly more electricity from the burning pellet than it took ignite it in the first place.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a maximum internal

strain or birefringence of 1.0 nanometer per centimeter. The National Bureau of Standards advises in its memorandum dated May 9, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value of the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-20035] Filed 6-27-79; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-643]

American President Lines, Ltd.; Application To Amend Contract MA/MSB-417 To Provide Service Between California and Guam

Notice is hereby given that American President Lines, Ltd., has requested amendment of its Line A services as set forth in its Operating-Differential Subsidy Agreement, Contract MA/MSB-417 so as to permit its subsidized vessels to call at Guam to provide service between California and Guam. This application does not include service between Guam and foreign ports on the Operator's Line A services.

American President Lines currently provides weekly sailings on Line A between California and the Far East with six full containerships. The Operator also provides biweekly sailings on its Line A Extension service between California and the Far East and Southeast Asia with four full containerships. The application is limited to no more than 52 sailings per year on Line A services calling at Guam. Subsidized ships calling at Guam with United States cargo may be subject to the reduction-in-subsidy/payback formulas set forth in the Merchant Marine Act, 1936, as amended.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C.

Commerce between continental United States ports and Guam has been

determined to be not "domestic intercoastal or coastwise service" within the meaning of section 805(a) of the Act. Also it is not foreign commerce, and therefore does not fall within the provisions of section 805(c) of the Act.

Any person, firm, or corporation having any interest in the above-mentioned application should by the close of business on July 13, 1979 submit such views as may be pertinent to such application in writing in triplicate. Such views should be directed to the issue as to whether the effect of the amendment sought by American President Lines would be to give undue advantage or be unduly prejudicial as between American President Lines and other operators serving Guam.

Written comments from interested parties should state in full their position on the above-mentioned application.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/ Maritime Administration.

Dated: June 25, 1979.

James S. Dawson, Jr.,
Secretary.

[FR Doc. 79-20103 Filed 6-27-79; 8:45 am]

BILLING CODE 3510-15-M

National Technical Information Services

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for \$.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Services (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP,
1900 Half Street SW., Washington, D.C.
20324.

Patent Application 929,614: Latch Mechanism; filed July 31, 1978.

Patent Application 956,305: Cooling Apparatus for an Exhaust Nozzle of a Gas Turbine Engine; filed Oct. 30, 1978.

Patent Application 956,704: A Combined Receiver Protector, AGC Attenuator and Sensitivity Time Control Device; filed Nov. 1, 1978.

Patent Application 958,929: Indicator for Detection of SO₂ Leakage; filed Nov. 8, 1978.

Patent Application 959,048: System for Releasably Connecting Blades to Rotor; filed Nov. 9, 1978.

Patent Application 959,050: Optical Protractor; filed Nov. 9, 1978.

Patent Application 960,207: Multiplexing of Multiple Loop Sidelobe Cancellers; filed Nov. 13, 1978.

Patent Application 962,411: Interferogram Synthesization Method and Apparatus; filed Nov. 20, 1978.

Patent Application 962,741: Line-of-Sight Stabilization Reflector Assembly; filed Nov. 21, 1978.

U.S. Department of Agriculture, Research Agreements & Patent Branch, Gen. Ser. Div. Federal Bldg., Agriculture Research Service, Hyattsville, Md. 20782.

Patent Application 897,811: Sequential Velocity Disk Refiner; filed April 19, 1978.

Patent 4,125,708: Chitosal Modified With Anionic Agent and Glutaraldehyde; filed Feb. 15, 1977, patented Nov. 14, 1978; not available NTIS.

Patent 4,133,784: Biodegradable Film Compositors Prepared From Starch and Copolymers of Ethylene and Acrylic Acid; filed Sept. 28, 1977, patented Jan. 9, 1979; not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent Application 841,087: Interferometric Correction System for a Numerically Controlled Machine; filed Oct. 11, 1977.

Patent Application 843,182: Acoustic Imaging System; filed Oct. 18, 1977.

Patent 4,082,607: Fuel Subassembly Leak Test Chamber for a Nuclear Reactor; filed Sept. 30, 1976, patented Apr. 4, 1978; not available NTIS.

Patent 4,087,323: Pipe Connector; filed Dec. 9, 1976, patented May 2, 1978; not available NTIS.

Patent 4,087,324: Pile Construction; filed Oct. 30, 1951, patented May 2, 1978; not available NTIS.

Patent 4,088,182: Temperature Control System for a J-Module Heat Exchanger; filed May 29, 1974, patented May 9, 1978; not available NTIS.

Patent 4,088,533: Radionuclide Trap; filed Jan. 18, 1977, patented May 9, 1978; not available NTIS.

Patent 4,089,535: Dual-Shank Attachment Design for omega Seals; filed Jan. 25, 1977, patented May 16, 1978; not available NTIS.

Patent 4,089,743: Flow Duct for Nuclear Reactors; filed Jan. 21, 1977, patented May 16, 1978; not available NTIS.

Patent 4,091,288: Threshold Self-Powered gamma Detector for Use as a Monitor of Power in a Nuclear Reactor; filed April 4, 1977, patented May 23, 1978; not available NTIS.

Patent 4,092,498: Neutronic Reactor; filed Aug. 29, 1952; patented May 30, 1978; not available NTIS.

Patent 4,092,452: High-Resolution Radiography by Means of a Hodoscope; filed Jan. 27, 1977, patented May 30, 1978; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20250.

Patent 4,110,461: Effect of Diphenylhydantoin and Related Compounds on Glaucoma; filed Mar. 19, 1973, patented Aug. 29, 1978; not available NTIS.

Patent 4,115,418: 1,2-Diaminocyclohexane Platinum (II) Complexes Having Antineoplastic Activity; filed Sept. 2, 1976, patented Sept. 19, 1978; not available NTIS.

Patent 4,138,089: Slide Valve; filed Aug. 9, 1977, patented Feb. 6, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent Application 942,846: Removal of Asbestos Fibers from Water; filed Sept. 15, 1978.

Patent 4,089,812: Massive Catalyst; filed May 13, 1977, patented May 16, 1978; not available NTIS.

Patent 4,094,955: Acid Process for Recovery of Alumina From Clay; filed June 24, 1977, patented June 13, 1978; not available NTIS.

Patent 4,096,944: Cartridge for Grouting an Anchor Element in a Hole of a Support Structure; filed Nov. 21, 1977, patented June 27, 1978; not available NTIS.

Patent 4,097,854: Sensing Mechanism for Mine Roof Bolting Apparatus; filed Mar. 4, 1977; patented June 27, 1978; not available NTIS.

Patent 4,102,816: Adsorbent for Polynuclear Aromatic Compounds; filed Oct. 18, 1976, patented July 25, 1978; not available NTIS.

Patent 4,105,328: Method of and Apparatus for Manipulating Line Weight in an Image; filed June 29, 1978, patented Aug. 8, 1978; not available NTIS.

Patent 4,110,344: Adsorbent for Polynuclear Aromatic Compounds; filed Oct. 18, 1977, patented Aug. 29, 1978; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 947,810: A Mixture Suitable for an Aerostat; filed Oct. 2, 1978.

Patent Application 970,414: Safe-Arm Device for Directed Warhead; filed Dec. 18, 1978.

Patent Application 972,124: An Acoustical Dereverberator; filed Dec. 19, 1978.

Patent Application 972,538: An AC Initiation System; filed Dec. 18, 1978.

Patent 4,104,970: Electronic Ignition System for Liquid Explosive; filed Feb. 10, 1977, patented Aug. 8, 1978; not available NTIS.

Patent 4,106,906: Method for Suppressing Water Evaporation Using a Polybutadiene Film; filed Jan. 31, 1977, patented Aug. 15, 1978; not available NTIS.

Patent 4,103,025: Aircraft Head-Up Display Unit Mount Adjustment Tool; filed May 27, 1977; patented Aug. 22, 1978; not available NTIS.

Patent 4,108,604: Analytical Method for TNT in Water; filed July 18, 1977; patented Aug. 22, 1978; not available NTIS.

Patent 4,109,216: Microwave Generator; filed May 31, 1977, patented Aug. 22, 1978; not available NTIS.

Patent 4,109,232: Correction and Transmission System for Directional Target Information; filed June 6, 1977; patented Aug. 22, 1978; not available NTIS.

Patent 4,109,998: Optical Slippings; filed Feb. 23, 1977, patented Aug. 29, 1978; not available NTIS.

Patent 4,111,728: Gas Generator Propellants; filed Feb. 11, 1977, patented Sept. 5, 1978; not available NTIS.

Patent 4,118,930: Filter-Cooler; filed Nov. 3, 1977; patented Oct. 10, 1978; not available NTIS.

Patent 4,119,917: Sequentially Triggering Two or More Hydrogen Thyratrons With Precision Timing; filed Nov. 3, 1977, patented Oct. 10, 1978; not available NTIS.

Patent 4,121,496: Gun Pod Stationary Blast Diffuser; filed May 2, 1977, patented Oct. 24, 1978; not available NTIS.

Patent 4,122,754: Dependent Sway Bracing Weapon Restraints; filed Aug. 5, 1977, patented Oct. 31, 1978; not available NTIS.

Patent 4,122,912: Dry Cooled Jet Aircraft Runup Noise Suppression System; filed Mar. 23, 1977, patented Oct. 31, 1978; not available NTIS.

Patent 4,122,927: Disconnect Linkage for Force Transmission System; filed May 13, 1977, patented Oct. 31, 1978; not available NTIS.

Patent 4,123,939: Thermal Standard; filed Apr. 19, 1977, patented Nov. 7, 1978; not available NTIS.

Patent 4,127,033: Ultrasonic Scanner System for Cast Explosive Billets; filed Aug. 23, 1976, patented Nov. 28, 1978; not available NTIS.

Tennessee Valley Authority, Division of Law, Muscle Shoals, Al. 35660.

Patent 4,068,432: Production of Suspension Fertilizers From Wet-Process Orthophosphoric Acids; filed Jan. 28, 1977, patented Jan. 3, 1978; not available NTIS.

Patent 4,113,842: Preparation of Dicalcium Phosphate From Phosphate Rock by the Use of Sulfur Dioxide, Water, and Carbonyl Compounds; filed Mar. 18, 1977, patented Sept. 12, 1978; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, Washington, D.C. 20240.

Patent 4,090,935: Process for Recovering Silver, Copper and Stainless Steel From Silver Brazed Stainless Steel Sections; filed

July 12, 1977, patented May 23, 1978; not available NTIS.

Patent 4,094,158: Loading Gate for Mine Roof Bolter Apparatus; filed May 27, 1977, patented June 13, 1978, not available NTIS.

[FR Doc. 79-20039 Filed 6-27-79; 8:45 a.m.]

BILLING CODE 3510-04-M

CONSUMER PRODUCT SAFETY COMMISSION

Advisory Committee Applications; Extended Deadline

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of deadline for submission of advisory committee applications to July 31, 1979.

SUMMARY: In the June 11, 1979 Federal Register (44 FR 33454), the Commission announced that it was seeking applications to fill vacancies on its three advisory committees: the Product Safety Advisory Council, the Technical Advisory Committee on Poison Prevention Packaging, and the National Advisory Committee for the Flammable Fabrics Act. This notice announces an extension of the deadline for submittal of applications from July 11 to July 31, 1979. Applications for membership on the committees should be returned to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR ADDITIONAL INFORMATION CONTACT: Catherine Bolger, Committee Management Officer, Office of the Secretary, 202-634-7700.

Dated: June 22, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-20005 Filed 6-27-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Summer Study Group on the Interdependence of SALT, Breakout and Specific MX Employment Variables; Meetings

June 19, 1979.

The USAF Scientific Advisory Board Summer Study Group on the Interdependence of SALT, Breakout and Specific MX Employment Variables will hold meetings at the Naval War College, Newport, Rhode Island, during the period 16-27 July 1979. The meetings will

convene at 8:30 a.m. and adjourn at 4:30 p.m.

The Group will hold classified discussions and receive briefings on verification and MX deployment. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-20170 Filed 6-27-79; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Operational Test and Evaluation Advisory Group; Meetings

June 18, 1979.

The USAF Scientific Advisory Board Operational Test and Evaluation Advisory Group will hold a meeting at Kirtland Air Force Base, New Mexico, on 17 and 18 July 1979. The meeting will convene at 8:30 a.m. and adjourn at 4:30 p.m. on both days.

The group will receive classified briefings on the operational test and evaluation planned for the Precision Emitter Location Strike System. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-20171 Filed 6-27-79; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Flood Control Project in the Sugar Creek Drainage Basin, North Carolina

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed plan is a combination of non-structural and structural measures to relieve flooding, to improve the appearance of certain project areas and to provide additional areas for recreation and conservation. The recommended actions would be taken on portions of six creeks in the

Sugar Creek Basin, all of which are inside the Charlotte, North Carolina city limits. Non-structural measures include purchasing flood prone structures and moving or demolishing the structures; floodproofing the frequently damaged structures; and the enforcement of policies to prevent future building in the floodways. Structural measures include modifications to bridges acting as obstructions to flow; construction of a dry reservoir; and channel modifications (primarily enlargement), all within the urban area of Charlotte.

2. The alternatives to the proposed action include no action and a number of combinations of structural and non-structural measures ranging from purely structural measures on all creeks to totally non-structural measures, such as flood insurance.

3. Scoping.

a. Scoping took place in the early stages of planning by writing to the major Federal, State and local agencies and by seeking their opinions on problems, needs and possible solutions. When issues were better defined, a scoping meeting was held with EPA, the U.S. Fish and Wildlife Service, the North Carolina Department of Natural Resources and Community Development, the Charlotte-Mecklenburg Planning Commission and private organizations. Two well advertised public meetings were held for the purpose of defining problems and needs, gathering input for the development of plans, and refining plans.

b. Significant issues to be discussed in the EIS include:

(1) the impact of moving or demolishing houses on the individual owners and the housing situation in general;

(2) the improvement to unattractive areas in the center of the city by cleaning, grading and landscaping and by providing additional lands for parks; and

(3) the impact of altered water discharge levels downstream from the structural measures.

Impacts on fish and wildlife, endangered species, wetlands, water quality and other natural resources are *not* significant because of the highly developed, urban nature of the City of Charlotte; the absence of any genuinely valuable, fragile or unusual natural resources in the affected areas; the unlikelihood of any changes in these conditions in the foreseeable future, with or without the proposed project; and the inclusion of measures in the proposed plans to limit possible adverse impacts.

c. Because of the small attendance at the second public meeting, it will be difficult to determine the impacts of moving persons and structures from the flood plains. The Charlotte-Mecklenburg Planning Commission is closely involved with the local housing situation and local attitudes, and the Commission may be asked to provide considerable input in these areas.

d. Other environmental review and consultation requirements.

(1) The Clean Water Act. Material excavated from channels will be transported to upland disposal areas. Fill may be involved in the construction of the dry reservoir; however, since the dam is designed to pass normal flows unaltered, the amount of fill in low areas will be minor. Riprap and concrete may be employed to reduce erosion of banks, but the effects will be minor and probably beneficial, considering the existing conditions in the creeks. By conducting an evaluation in accordance with 404(b)(1) guidelines promulgated by EPA and by providing this information to Congress prior to authorization of the project, the applicable provisions of the Clean Water Act will be satisfied.

(2) Coastal Zone Management Act of 1972. Not applicable.

(3) Endangered Species Act of 1973. Not applicable; see 3.b above.

(4) Fish and Wildlife Coordination Act. The FWS has been included in the project since the earliest stages, and the FWS generally concurs with the District's finding of no significant impact on fish and wildlife resources. FWS will provide a brief coordination report.

(5) National Historic Preservation Act of 1966. A cultural resources reconnaissance was conducted and the appropriate individuals have been contacted. A more intensive survey will be conducted in the areas that are authorized for structural and non-structural plans.

(6) Executive Order 11988, Floodplain Management. The plans are designed to discourage development in the floodplain and are in compliance with the Executive Order.

(7) Executive Order 11990, Protection of Wetlands. See 3.d(1) above. There will be no significant impact on wetlands.

4. The scoping process was begun before publication of the new CEQ guidelines which discuss scoping meetings. Scoping was carried out according to the then draft Corps of Engineers planning regulations. No scoping meetings are planned in addition to the ones held on April 26 and 27, 1978 in Charlotte, North Carolina. See 3.a.

5. The estimated date that the DEIS will be made available to the public is October 1979.

Questions about the proposed action and DEIS can be answered by Mr. Stephen J. Morrison, Environmental Resources Branch, Charleston District, U.S. Army Corps of Engineers, P.O. Box 919, Charleston, South Carolina 29402.

By authority of the Secretary of the Army.

Dated: June 25, 1979.

Rome D. Smyth,

Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79-20097 Filed 6-27-79; 8:45 am]

BILLING CODE 3710-AC-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Navigation Improvements to Rota Harbor, Rota, Commonwealth of the Mariana Island

June 20, 1979.

AGENCY: U.S. Army Corps of Engineers, DoD, Honolulu District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Improvements to Rota Harbor could involve widening the existing harbor channel and basin; the construction of wave absorbers on the reef and shoreline and possible relocation of the existing dock. Excavation will require the use of explosives, and the dredged material will be stockpiled on land near the harbor in the Department of Public Works area. Rock for the wave absorbers will be obtained from existing commercial quarries on Guam.

2. The reasonable alternatives to be examined include a combination of channel widening, basin expansion, wave absorbers, and dock locations. Alternative harbor sites were also considered.

3. Federal, state and local government agencies, affected groups and interested private organizations or parties are invited to participate in the development of the DEIS. The DEIS will analyze the effects of the project on reef and fishery resources, water quality, endangered species, migratory birds, historic resources and land use. Consultation is required with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and Commonwealth of the Northern Mariana Island Historic Preservation Officer and the U.S. Environmental Protection Agency. An

evaluation of the discharge of fill material will be made in conformance with Section 404(b)(1) guidelines promulgated by the U.S. Environmental Protection Agency. A public meeting is being scheduled for August 1979 on Rota Island.

4. A scoping meeting will not be held.

5. The DEIS will be available to the public in July 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Scott Sullivan, Project Manager, U.S. Army Engineer District, Honolulu, Building 230, Fort Shafter, Hawaii 96858, Telephone: (808) 438-2259/2250.

Dated: June 20, 1979.

Peter D. Stearns,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 79-20049 Filed 6-27-79; 8:45 am]

BILLING CODE 3710-HH-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Coal Creek Small Flood Control Project at Cedar City in Iron County, Utah

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Action.*—The Chief of Engineers has approved the preparation of a Detailed Project Report, and studies are underway to determine feasibility for a small flood control project at Cedar City under the authority of Section 205 of the 1948 Flood Control Act, as amended (33 U.S.C. 701s).

2. *Alternatives.*—Alternatives being considered include: no action, levees and channel improvement, debris basins, detention basins, evacuating or zoning flood prone areas, flood proofing existing development, a dam for flood control or multiple-purpose storage on Coal Creek, and grade stabilization structures in the canyon.

3. *Scoping of the DEIS.*—All interested parties are invited to participate in scoping meetings to be held at 10:00 a.m. on July 10, 1979 at the Federal Building, 125 South State Street, Room B-20, Salt Lake City, Utah, and at 3:00 p.m. on July 10, 1979 at the Iron County Courts Building, 75 East Harding Avenue, Cedar City, Utah. The purpose of the meetings is to identify significant environmental concerns to be presented in detail in the environmental statement and nonsignificant issues to be presented in less detail. Information obtained to date indicates that environmental impacts of

the proposed action are expected to be minor.

4. *Estimated Date of DEIS.*—A draft environmental statement is expected to be circulated for public review in December 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Lee McQuivey, Planning Engineer, Sacramento District, Corps of Engineers, Post Office Building, Room 341, 350 South Main Street, Salt Lake City, Utah 84111, telephone (702) 588-4264 (FTS 588-4264).

Dated: June 20, 1979.

Carlos W. Hickman,
Lieutenant Colonel, CE Acting District Engineer.

[FR Doc. 79-20041 Filed 6-27-79; 8:45 am]

BILLING CODE 3710-GH-M

Privacy Act of 1974; Deletions and Amendments to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of deletions and amendments to systems of records.

SUMMARY: The Army proposes to delete 5 and amend 11 systems of records subject to the Privacy Act of 1974. specific changes to the systems being amended are set forth below, followed by the systems being amended are set forth below, followed by the systems being amended are set forth below, followed by the systems published in their entirety as amended.

DATE: The systems shall be amended as proposed without further notice within 30 days unless comments are received on or before July 30, 1979 which would result in a contrary determination and require republications for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue, SW, Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act, have been published in the Federal Register as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977.
FR Doc. 78-23953 (43 FR 38070) August 25, 1978.
FR Doc. 78-22562 (43 FR 40272) September 11, 1978.
FR Doc. 78-26732 (43 FR 42026) September 19, 1978.
FR Doc. 78-25819 (43 FR 42374) September 20, 1978.
FR Doc. 78-26699 (43 FR 43059) September 22, 1978.
FR Doc. 78-26996 (43 FR 43539) September 26, 1978.
FR Doc. 78-29130 (43 FR 47604) October 16, 1978.
FR Doc. 78-29211 (43 FR 48894) October 19, 1978.
FR Doc. 78-29982 (43 FR 49557) October 24, 1978.
FR Doc. 78-31795 (43 FR 52512) November 13, 1978.
FR Doc. 78-34586 (43 FR 58111) December 12, 1978.
FR Doc. 78-35523 (43 FR 59869) December 22, 1978.
FR Doc. 79-5788 (44 FR 11105) February 27, 1979.
FR Doc. 79-6621 (44 FR 12231) March 6, 1979.
FR Doc. 79-8787 (44 FR 17767) March 23, 1979.
FR Doc. 79-11350 (44 FR 22140) April 13, 1979.
FR Doc. 79-13252 (44 FR 24904) April 27, 1979.
FR Doc. 79-15909 (44 FR 29700) May 22, 1979.

Proposed amendments are not within the purview of the provisions of 5 USC 552a(o) of the act which require the submission of a new or altered system report.

H. E. Lofdahl

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

June 21, 1979.

Deletions

A0503.04USASA

System name: 503.04 Security Clearance Case Files (SCCF) (42 FR 50486) September 28, 1977.

Reason: The United States Army Security Agency (USASA) has been disestablished; records are included in system notice A0508.01DAMI (42 FR 50489) September 28, 1977.

A0503.08DAMI

System name: 503.08 Unsolicited Correspondence File (42 FR 50487) September 28, 1977.

Reason: Records are not retrieved by a personal identifier; therefore, they are not subject to Title 5 U.S.C., Section 552a.

A0506.01cDAMI

System name: 506.01 Security Clearance Information File (42 FR 50488) September 28, 1977.

Reason: The United States Army Intelligence Agency (USAINTA) has

been disestablished; records are included in system notice A0506.01FDAMI (42 FR 50489) September 28, 1977.

A0506.01eUSASA

System name: 506.01 Personnel Clearance Record (PCR) Files (42 FR 50489) September 28, 1977.

Reason: The United States Army Security Agency (USASA) has been disestablished; records are included in system notice A0506.01FDAMI (42 FR 50489) September 28, 1977.

A0506.02aUSASA

System name: 506.02 Indoctrination/Debriefing/Travel Restriction Data Files (42 FR 50491) September 28, 1977.

Reason: The United States Army Security Agency (USASA) has been disestablished and the requirement for this file no longer exists; records have been destroyed.

Amendments

A0403.17DAJA

System name: 403.17 Medical Expense Claim Files (42 FR 50467) September 28, 1977.

Changes:

System location: Delete entry and substitute: "Primary: Staff Judge Advocate offices at Army commands, field operating agencies, installations and activities. Addresses are listed in the Department of Defense (DOD) Organizational Directory.

Segment: Litigation Division, Office of The Judge Advocate General, Department of the Army, Room 2D435, The Pentagon, Washington, DC 20310."

A0501.08bDAMI

System name: 501.08 Technical Surveillance Index (44 FR 11105) February 27, 1979.

Changes:

System identification: Change "A0501.08bDAMI" to "A0502.03bDAMI".
Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete entry and substitute: "Use limited to Motions for Discovery, Military Courts Martial, Privacy Act Requests, and Congressional inquiries."

A0501.08cDAMI

System name: 501.08 Department of the Army Occupational Support Activities Files (42 FR 50480) September 28, 1977.

Changes:

System identification: Change "A0501.08cDAMI" to "A0503.03aDAMI".

System location: Delete entry and substitute: "United States Army Intelligence and Security Command (USAINSCOM), Ft. Meade, MD 20755."

Notification procedure: Delete "See Exemption." and substitute: "Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755; Telephone: Area Code 301/677-4742/3."

Record access procedures: Delete "See Exemption." and substitute: "Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755."

Written requests for information must contain the full name and social security number of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal information that could be verified from his file card."

Contesting record procedures: Delete "See Exemption." and substitute: "The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER."

Record source categories: Delete "See Exemption." and substitute: "Applications and related information is obtained from the individual; investigative reports of Defense Investigative Service, USAINSCOM, and other Federal and Department of Defense investigative and law enforcement agencies."

Systems exempted from certain provisions of the act: Delete entry and substitute: "Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER."

A0501.10DAMI

System name: 501.10 Counterintelligence Research File System (CIRFS) (42 FR 50482) September 28, 1977.

Changes:

System location: Delete entry and substitute: "Counter-intelligence Production Division, Intelligence and Threat Analysis Center, United States Army Intelligence and Security Command (USAINSCOM), Arlington Hall Station, Arlington, VA 22212."

Notification procedure: Delete "See Exemption." and substitute: "Information may be obtained from:

Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755; Telephone: Area Code 301/677-4742/3."

Record access procedures: Delete "See Exemption." and substitute: "Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755."

Written requests for information must contain the full name and social security number of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal information that could be verified from his file card."

Contesting record procedures: Delete "See Exemption." and substitute: "The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER."

Record source categories: Delete "See Exemption." and substitute: "Information obtained from investigative reports of the Defense Investigative Service, USAINSCOM, other Federal and Department of Defense investigative and law enforcement agencies."

Systems exempted from certain provisions of the act: Delete entry and substitute: "Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER."

A0502.03aDAMI

System name: 502.03 Intelligence Collection Files (42 FR 50483) September 28, 1977.

Changes:

System location: Delete entry and substitute: "United States Army Intelligence and Security Command (USAINSCOM), Ft. Meade, MD 20755. Decentralized segments located at USAINSCOM groups, field station, battalions, detachments, field offices and resident offices stationed worldwide."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Add: "Automated data processing records on disk with video display of individual source records on cathode ray tube."

Safeguards: Add: "Automated media are protected by authorized code word for access to system, controlled access

to operations rooms, and controlled input distribution."

Retention and disposal: Delete "US Army Intelligence Agency, Ft. Meade, MD 20755" and substitute "United States Army Intelligence and Security Command, Ft. Meade, MD 20755."

Notification procedure: Delete "See Exemption." and substitute: "Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755; Telephone: Area Code 301/677-4742/3."

Record access procedures: Delete "See Exemption." and substitute: "Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755."

Written requests for information must contain the full name and social security number of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal information that could be verified from his file."

Contesting record procedures: Delete "See Exemption." and substitute: "The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER."

Record source categories: Delete "See Exemption." and substitute: "Applications and related information is obtained from the individual; investigative reports of Defense Investigative Service, USAINSCOM, and other Federal and DOD investigative and law enforcement agencies."

Systems exempted from certain provisions of the act: Delete entry and substitute: "Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER."

A0502.08aDAMI

System name: 502.08 Badge and Credential Files (42 FR 50483) September 28, 1977.

Changes:

System location: Delete entry and substitute: "United States Army Intelligence and Security Command (USAINSCOM), Ft. Meade, MD 20755."

Decentralized Segments: Each USAINSCOM group, field station, battalion, detachment, field or resident office having assigned personnel who possess Military Intelligence Badges and Credentials (B&C)."

Notification procedure: Delete entry and substitute: "Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755; Telephone: Area Code 301/677-4742/3."

Record access procedures: Delete: "Headquarters, United States Army Intelligence Agency, ATTN: MIA-CIS-B&C Controller, Fort Meade, MD 20755" and substitute: "Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755."

A0502.10aDAMI

System name: 502.10 USAINTA Investigative Files System (42 FR 50484) September 28, 1977.

Changes: References throughout "USAINTA" are changed to read: "USAINSCOM".

A0713.09aTRADOC

System name: 713.09 Skill Qualification Test (42 FR 50547) September 28, 1977.

Changes:

System location: Add new subparagraph: "e. Supervisory Non-Commissioned Officers (NCOs) at unit level worldwide: SQT Job Books."

Categories of records in the system: Add: "SQT Job Book (located at soldier's unit) contains name, rank, and record of individual performance of job tasks conducted in a unit training environment."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add: "SQT Job Books are used by Commanders and NCOs to assess individual and unit proficiency and combat readiness and to identify routine and intensified training needs."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Safeguards: Add: "Job Books are security maintained as an official unclassified training record."

A1504.08aDAEN

System name: 1504.08 Real Estate Outgrants (42 FR 50653) September 28, 1977.

Changes:

System location: Delete entry and substitute: "Office of the Chief of Engineers (OCE), United States Army Corps of Engineers Division and District Offices with real estate responsibility."

Categories of records in the system: Delete entry and substitute: "Outgrant instruments and listings by number and name to include location, purpose, term

and rental for each outgrant and an indication when grantees are not in compliance with terms of their outgrants."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete entry and substitute: "The purpose of the system is to promote processing of outgrants and to facilitate the administration of the outgrant program."

The machine listing of outgrants (Engineer Form 3560) is used by OCE personnel and District, Division, and HQ levels in recording inspections of outgrants and determination of grantees' compliance with terms and conditions of the grant. Though presently used only for civil works projects, it may be used for inspection of military installations."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Delete entry and substitute: "Punch cards in ADP Centers; paper records and computer paper printouts in file folders at the District/Division/OCE offices."

Safeguards: Delete entry and substitute: "Automated data are protected by physical security devices which include guards to the buildings, and limited access only to authorized personnel. Access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data handled. Paper records are maintained in areas accessible only to authorized personnel in buildings which either employ security guards or are locked when not in use."

Retention and disposal: Delete entry and substitute: "Outgrants at OCE level are destroyed on termination; remaining files are permanent. Division records are destroyed 4 years after termination of basic instrument. In District Offices and ADP Centers, records are destroyed 3 years after termination of basic instrument."

System manager(s) and address:

Delete entry and substitute: "Chief, Programs Division, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army, Washington, DC 20314."

Notification procedure: Delete information following "SYSMANAGER".

Record access procedures: Delete information following "SYSMANAGER".

Contesting record procedures: Add "(32 CFR Part 505)" to entry.

A1506.02aDAEN

System name: 1506.02 Homeowners Assistance Case Files (42 FR 50653) September 28, 1977.

Changes:

Categories of individuals covered by the system: Delete entry and substitute: "Civilian employees and military personnel who apply for Homeowners Assistance benefits pursuant to Section 1013 of Pub. L. 89-754, as amended."

Categories of records in the system: After the first sentence, delete remainder and substitute the following: "Included are: employment verifications; income and expense figures; Engineer (ENG) Form 42 (Offer to Sell Real Property) or similar written offer; ENG Form 3423 (Negotiator's Report), title evidence and opinions, surveys, leases; ENG Form 798 (Certificate of Inspection and Possession); ENG Form 1566 (Payment and Closing Sheet and Receipt for United States Treasurer's Check); market impact data; insurance and tax data; ENG Form 1290 (Disclaimer by Person in Possession); Department of Defense Form 1607 (Application for Homeowners Assistance); Federal Housing Administration (FHA) Form 1174 (Notification of Military Acquisition) and FHA Form 1175 (Transmittal of Recorded Deed and Title Assembly—Military Acquisition); appraisal reports, docket sheets, questionnaires, copies of deeds and mortgages, mortgage settlement data; evidence of proof of ownership and occupancy of residence, applicant appeals and final decisions thereon; comparable forms and related correspondence."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete entry and substitute: "Homeowners Assistance Division, OCE: To process applications for homeowners assistance benefits and to consider appeals; to review market studies and appraisals; to review final title assemblies of deeds of conveyance to the Government for properties acquired under the program."

Corps of Engineers Division and District Offices: To investigate and study potential impact of base closures or reductions based upon personnel data and real estate market conditions; to reply to inquiries; to assist persons in applying for benefits by reviewing applications, determining benefits, furnishing deed, title evidence, name of Government's grantor, name and address of mortgagee, unpaid balance on mortgage, occupancy data, tax information, title opinion and insurance policy; to furnish FHA appropriate

papers and to transmit unresolved appeals to OCE.

Department of Housing and Urban Development/FHA: In assuming custody of acquired homes, to manage and dispose of such properties on behalf of the Secretary of Defense.

FHA/Veterans Administration: In accepting subsequent purchaser in private sale when property is encumbered by a mortgage loan guaranteed or insured by them.

Department of Justice: In reviewing final title and deeds of conveyance to the Government for properties acquired under the Program, pursuant to their responsibility under Pub. L. 91-393."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Safeguards: Delete entry and substitute: "Automated data are protected by physical security devices which include guards to the buildings, and limited access only to authorized personnel. Access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data handled. Paper records are maintained in areas accessible only to authorized personnel in buildings which either employ security guards or are locked when not in use."

Retention and disposal: Delete entry commencing: "Primary System:" and substitute: "Office performing Army-wide responsibility: Files are destroyed 10 years after final action or decision on appeals, as applicable."

A1511.01aDAPE

System name: 1511.01 Army Housing Files (43 FR 42396) September 20, 1978.

Changes:

System identification: Change "A1511.01aDAPE" to "A1511.01aDAEN".

System name: Change title to read: "Army Housing Information Management System (HIMS)".

System location: Delete entry and substitute: "Office of the Chief of Engineers, Department of the Army, Washington, DC 20314, and Housing Managers at Army installations worldwide. Official Mailing addresses are in the Department of the Army Directory."

System manager(s) and address: Delete "Deputy Chief of Staff for Personnel * * *"

A0403.17DAJA

SYSTEM NAME:

403.17 Medical Expense Claim Files.

SYSTEM LOCATION:

Primary: Staff Judge Advocate offices at Army commands, field operating agencies, installations and activities. Addresses are listed in the Department of Defense (DOD) Organizational Directory.

Segment: Litigation Division, Office of The Judge Advocate General, Department of the Army, Room 2D435, The Pentagon, Washington, DC 20310.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who received medical treatment at the expense of the United States (US) Army as a result of a tortuous or negligent act of a third party; third parties causing medical care to be furnished to individuals entitled to medical care at Government expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of medical and personnel records of individuals injured by a third party from whom the US Army is seeking to recover the costs of medical care furnished the injured party under the Medical Care Recovery Act (42 U.S.C. 2651-3); accident and police reports relating to the injury; claims investigation files; correspondence with attorneys representing the Army's interest; court documents, if the claim is pursued through litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 42 U.S.C., Section 3651-3; Executive Order 11060; and Attorney General Regulation 28 CFR 43.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Collected information is used to negotiate with the tortfeasor or an insurance carrier or to sue the same to collect the value of medical care furnished the injured party. Routine users, in addition to the Litigation Division, Office of The Judge Advocate General of the Army, include the Department of Justice, appropriate United States Attorneys, civilian attorneys representing the injured party who agree also to represent the US Army's claim, and opposing parties and their attorneys.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Various Federal buildings employ security guards. Records are maintained in file cabinets accessible only by authorized personnel who are properly instructed in the permissible use of the information.

RETENTION AND DISPOSAL:

The Judge Advocate General's Office: Collected claims; destroy 10 years after final settlement. Uncollected claims; destroy 10 years after completion of litigation or determination that the case will not be prosecuted.

Other offices: Destroy cases settled locally 5 years after final action on the case.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Litigation Division, Office of The Judge Advocate General, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the SYSMANAGER.

Written requests for information should contain the full name of the individual, current address and telephone number, the case number that appears with the office symbol on all correspondence received from this office and any other personal identifying data (driver's license number, if any) which would assist in determining the identity of the requester.

For personal visits, the individual should be able to provide positive identification (driver's license, identification card) and give information that could be verified within his 'case' folder. Visits may be made to any Staff Judge Advocate Office.

RECORD ACCESS PROCEDURES:

Written requests for information should contain the full name of the individual, current address and telephone number, the case number that appears with the office symbol on all correspondence received from this office and any other personal identifying data (driver's license number, if any) which would assist in determining the identity of the requester.

For personal visits, the individual should be able to provide positive identification (driver's license, identification card) and give information that could be verified within his 'case' folder. Visits may be made to the Litigation Division, Office of The Judge Advocate General, Department of the Army, Room 2D435, The Pentagon, Washington, DC 20310.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Department of the Army (DA) Staff elements; Staff Judge Advocate Offices at organizations listed in the DOD Organizational Directory in the Appendix; National Personnel Records Center, St. Louis; US Army Military Personnel Center; posts, camps, and stations; DA field operating agencies; Civil Service Commission; Department of Justice; US Attorneys; opposing counsel; and Armed Forces Institute of Pathology.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0501.10DAMI**SYSTEM NAME:**

501.10 Counterintelligence Research File system (CIRFS)

SYSTEM LOCATION:

Counterintelligence Production Division, Intelligence and Threat Analysis Center, United States Army Intelligence and Security Command (USAINSCOM), Arlington Hall Station, Arlington, VA 22212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have come to the attention of the US Army counterintelligence community during the course of intelligence operations or normal mission requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains reports employed by the United States intelligence community and, in some cases, photographs of the individual. File is random in structure and personalities are coded for retrieval by a computerized index.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a quick reference file to support the Assistant Chief of Staff for Intelligence and to provide the counterintelligence desk analyst a working tool for study of historical and current intelligence material for possible trends in the state-of-the-art.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Microfilmed reels in cassettes and indexed on computer diskpack.

RETRIEVABILITY:

Microfilmed in random order. Retrieved by personality name via computer index which identifies the reel and document location containing the requested name.

SAFEGUARDS:

Building protected by security guards and storage point electronically monitored for illegal entry. Computerized index is access controlled by a code word that is issued only to properly screened, cleared, and trained personnel. Code word is presently held only by the Assistant Chief of Staff for Intelligence and issued only to the team of a group conducting a screening operation of the CIRFS.

RETENTION AND DISPOSAL:

Records are permanent. They are photographed onto microfilm and the original document destroyed. The file is presently being screened for identification of documents no longer needed and selected documents are being destroyed at the direction of the Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Chief of Staff for Intelligence, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755; Telephone: Area Code 301/677-4742/3.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755.

Written requests for information must contain the full name and social security number of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal information that could be verified from his file card.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determination may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Information obtained from investigative reports of the Defense Investigative Service, USAINSCOM, other Federal and Department of Defense investigative and law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k)(1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER.

A0502.03aDAMI**SYSTEM NAME:**

502.03 Intelligence Collection Files

SYSTEM LOCATION:

United States Army Intelligence and Security Command (USAINSCOM), Ft Meade, MD 20755. Decentralized segments located at USAINSCOM groups, field stations, battalions, detachments, field offices and resident offices stationed worldwide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

An individual who is qualified and may be accepted for sensitive intelligence duties with the US Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain documents which describe the requirements, objectives, approvals, implementation, reports, and results of Department of the Army (DA) sensitive intelligence activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, Sections 2, 3, 4, 5, 6, 7, 8, 9, and 14; Title 10 U.S.C., Section 3012(b)(c)(g); and National Security Act of 1947, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used to support contingency planning and military operations by DA, Department of Defense (DOD), Federal Bureau of Investigation, Central Intelligence Agency, and Defense Intelligence Agency.

Information may be disclosed to foreign law enforcement, security, investigatory or administrative authorities in order to comply with

requirements imposed by, or to claim rights conferred in, international agreements including those regulating the stationing and status in foreign countries of DOD military and civilian personnel and other countries where there are routine reciprocal exchanges of information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and visible, vertical card files. Automated data processing records on disk with video display of individual source records on cathode ray tube.

RETRIEVABILITY:

Filed alphabetically by last name, numerically by source and by project number.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly cleared and have a need-to-know for the information. Automated media are protected by authorized code word for access to system, controlled access to operations rooms, and controlled input distribution.

RETENTION AND DISPOSAL:

Records are permanent and retained in active file until no longer needed, then retired to Investigative Records Repository, USAINSCOM, Ft Meade, MD 20755.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade, MD 20755; Telephone: Area Code 301/377-4742/3.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft. Meade MD 20755.

Written requests for information must contain the full name and social security number of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal

information that could be verified from his file.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Applications and related information is obtained from the individual; investigative reports of Defense Investigative Service, USAINSCOM, and other Federal and DOD investigative and law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER.

A0502.03bDAMI

SYSTEM NAME:

502.03 Technical Surveillance Index

SYSTEM LOCATION:

Decentralized locations at Investigative Records Repository, Headquarters (HQ), United States Army Intelligence and Security command (USAINSCOM), Ft Meade, MD; Systems Division, Office of the Deputy Chief of Staff, Intelligence, HQ, United States Army Europe and Seventh Army (USAREUR), Heidelberg, W. Germany; Office of the Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (HQDA), The Pentagon; and Crimes Records Directorate, Ft Holabird, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose conversations have been intercepted during technical surveillance operations conducted by or on behalf of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's name and citizenship; any associated telephone number or radio call sign; location, date, and time of the surveillance activity; and the source document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 18 U.S.C., Sections 2510-2520 and 3504.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use limited to Motion for Discovery, Military Courts Martial, Privacy Act Requests, and Congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes and paper records.

RETRIEVABILITY:

USAREUR segment utilizes a computerized retrieval system using name, address, telephone number or case designation. Other segments are retrieved manually by name, address, telephone number or case designation.

SAFEGUARDS:

Access to buildings controlled by security guards. Records are maintained in General Services Administration approved security containers, physically separated from other materials, and accessible only to authorized personnel who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army (DAMI-CIS), The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Headquarters, Department of the Army (DAMI-CIS), Room 2D481, The Pentagon, Washington, DC 20310; Telephone: Area Code 202/695-4474.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the appropriate decentralized repository.

Written requests for information should contain the full name of the individual, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAMI-DOS), Washington, DC 20310.

RECORD SOURCE CATEGORIES:

Army and other investigative agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k)(1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER.

A0502.08aDAMI

SYSTEM NAME:

502.08 Badge and Credential Files.

SYSTEM LOCATION:

United States Army Intelligence and Security Command (USAINSCOM), Ft Meade, MD 20755.

Decentralized Segments: Each USAINSCOM group, field station, battalion, detachment, field or resident office having assigned personnel who possess Military Intelligence Badges and Credentials (B&C).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who currently possess or in the past possessed Military Intelligence B&C.

CATEGORIES OF RECORDS IN THE SYSTEM:

Card file containing the name, social security number (SSN), rank, and B&C number of each person who has been issued Military Intelligence B&C. This card file is an index to a numerical filing system consisting of envelopes having a B&C status and Control Card (MIA Form 70) attached which contains the name of the individual, B&C number, component (military or civilian), military occupational specialty (MOS), clearance of civilian, authority for issue, and comments which indicate the history of the B&C keyed to the individuals having been assigned the B&C.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, Sections 2, 3, 4, 5, 6, 7, 8, 9, and 14; Title 10 U.S.C., Section 3012 (b), (c), and (g); and National Security Act of 1947, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose of system is to maintain control and accountability over Military Intelligence B&C.

USAINSCOM uses system to maintain strict control and accountability over all B&C; to conduct periodic inventories; to determine SSN, rank, and/or location of B&C possessors or expossessors; and to determine whether individuals have B&C.

Federal investigative and/or intelligence agencies on occasion use

the file to ascertain if an individual legally possesses B&C.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Card files.

RETRIEVABILITY:

Filed alphabetically by last name of possessor of B&C.

SAFEGUARDS:

Primary system is maintained in buildings employing security guards. Records are maintained in area accessible only to authorized personnel who are properly cleared and trained.

RETENTION AND DISPOSAL:

Records are maintained indefinitely. Destruction is authorized by Central Custodian of the B&C.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755; Telephone: Area Code 301/677-4742/3.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755.

Written requests for information must contain the full name and SSN of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal information that could be verified from his file card.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

United States Army personnel and security records and United States Army Orders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0502.10aDAMI

SYSTEM NAME:

502.10 USAINSCOM Investigative Files System

SYSTEM LOCATION:

United States Army Intelligence and Security Command (USAINSCOM), Ft Meade, MD 20755. Decentralized segments located at USAINSCOM groups, field stations, battalions, detachments, and field offices stationed worldwide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel of the United States (US) Army to include active duty, National Guard members, reservists, and retirees; civilian employees of the Department of the Army (DA) to include contract, temporary, part time, advisory, and volunteer, including citizen and alien employees located both in the US and in oversea areas; industrial or contractor personnel who are civilians working in private industry for firms which have contracts involving access to classified Department of Defense (DOD) information; aliens granted limited access authorization to US defense information; DOD alien personnel investigated for visa purposes; individuals about whom there is a reasonable basis to believe that they are engaged in, or plan to engage in, activities such as: (1) theft, destruction or sabotage of ammunition, equipment, facilities or records belonging to DOD units or installations, (2) possible compromise of classified defense information by unauthorized disclosure or by espionage, (3) subversion of loyalty, discipline or morale of DA military or civilian personnel by actively encouraging violation of lawful orders and regulations or disruption of military activities, (4) demonstrations on active or reserve Army installations or immediately adjacent thereto which are of such character that they are likely to interfere with the conduct of military operations, (5) direct threats to DOD military or civilian employees regarding their official duties or to other persons authorized protection by DOD resources, and (6) activities or demonstrations endangering classified defense contract facilities or key defense facilities of the Panama Canal approved by Headquarters, Department of the Army; certain non-DOD affiliated persons whose activities involve them with the DOD, namely, activities involving requests for admission to DOD facilities or requests for certain

information regarding DOD personnel, activities or facilities; persons formerly affiliated with the DOD; persons who applied for or are/were being considered for employment with or access to DOD such as applicants for military service, pre-inductees, and prospective contractors; visa applicants; individuals residing on, having authorized official access to, or conducting or operating any business or other function at any DOD installation or facility; and USAINSCOM sources.

CATEGORIES OF RECORDS IN THE SYSTEM.

Requests for investigation and attachments thereto such as personal history statements; fingerprint cards; personnel security questionnaire; waivers for release of credit, medical and/or educational records; and National Agency check requests.

Investigations conducted by USAINSCOM or other DOD, Federal, State or local investigative agency to include: National Agency checks; local agency checks; military records; birth records; employment records; education records; credit records; interviews of education, employment, and credit references; interviews of listed and developed character references; interviews of neighbors; documents which succinctly summarize information in subject's investigative file; case summaries prepared by both investigative control offices and requesters of investigation interrogation reports; correspondence pertaining to the investigation or its adjudication by clearance authority to include: (1) information which reflects the chronology of the investigation and adjudication, (2) all recommendations regarding the future status of the subject, (3) actions of security/loyalty review boards, (4) final actions/determinations made regarding the subject, and (5) security clearance, limited access authorization or security determination; index tracing reference which contains aliases and names of the subject and names of co-subjects; USAINSCOM for indicating dossier has been reviewed and all material therein conforms to DOD policy regarding retention criteria; USAINSCOM form to indicate material has been removed and forwarded to the Defense Investigative Service (DIS); security termination statements; notification of denial, suspension or revocation of clearance; record of USAINSCOM agent case assignments; reports of casualty; biographical data concerning Army personnel who are missing or captured; and cross reference sheets which

indicate the removal of investigative documents requiring limited access.

Case control and management documents that serve as the basis for conducting the investigation. This includes documents requesting the investigation; background data such as personal history statement, fingerprint cards, National Agency check requests, and release statements; and documents used in case management and control such as lead sheets, other field tasking documents, and transfer forms.

Card index of personnel investigations/operations which are under controlled access to include USAINSCOM personnel; file procurement officers; and sensitive counter-espionage, counter-espionage, counter-sabotage, and counter subversion investigations and/or operations.

Accession file maintained to keep record of all persons and agencies authorized to receive Investigation Records Repository (IRR) Files.

Microfilm index and catalog file which is an index to all investigative holdings contained in microfilmed investigative records.

Investigative index card file record system maintained to keep a permanent record of all dossiers charged out of USAINSCOM on loan to user agencies or on permanent transfer to DIS.

Document account record of dossiers of their reproduction or microfiche files forwarded from and returned to USAINSCOM.

Card file and paper listing of all personnel under Army cognizance whose clearances have been revoked. File contains individual's name, date and place of birth, social security number (SSN), coded reason for revocation, and name of agency which designated the revocation.

File containing a record of all favorable IRR dossiers destroyed because no action has transpired in the file within the past 15 years. File consists of either the last clearance certificate contained in the dossier or, if no clearance certificate exists, a summary card containing the name of the individual, his date and place of birth, his SSN or Army service number, date and type of investigation, and the name of the agency which conducted the investigation.

Records accounting for the disclosure of USAINSCOM investigative material made outside the U.S. Army.

Summaries of release actions under the Freedom of Information Act (FOIA) and the Privacy Act (PVA) of 1974.

Card file containing a summary of all actions taken by the USAINSCOM in the conduct of security adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, Sections 2, 3, 4, 5, 6, 7, 8, 9, and 14; Title 10 U.S.C., Section 3012(b)(c)(g); National Security Act of 1947, as amended; Executive Order 11652, Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 12.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purposes for which information in the system is collected are as follows:

To conduct personnel security investigations (PSI). A PSI is an inquiry into the activities of the individual which is designed to develop pertinent information pertaining to his suitability for a position of trust. Information is compiled on loyalty, character, emotional stability, trustworthiness, and reliability to insure that an individual's access or continued access to defense information, entry to restricted areas, access to nuclear weapons, security eligibility or acceptability for assignments to or retention in sensitive civilian positions and acceptance or retention as a member of the Armed Forces is clearly consistent with the interest of national security.

To provide protective services when authorized by the Secretary of Defense for the DOD Distinguished Visitors Protection Program. The objective of the program is to provide physical protection for distinguished foreign visitors of DOD and Military Departments and high ranking members of DOD and its agencies, and to assist the U.S. Secret Service in its protective functions.

To conduct special investigations, as authorized by the Secretary of the Army, which are counterintelligence investigations concerning highly sensitive matters and highly placed persons within the DOD and its agencies.

To conduct limited reciprocal investigations on receipt of an official request from Federal law investigative agencies. These investigations involve the review of DA and military records.

Categories of users of USAINSCOM investigative files are: USAINSCOM personnel in the course of their official duties.

Other DOD investigative elements, DOD agencies and elements of the Military Departments designated by the departments in official directives or regulations, and accredited

representatives of the Secretary of Defense and the Joint Chiefs of Staff.

Accredited Federal criminal and civil law enforcement agencies including those responsible for conducting their own investigations as to suitability for employment or access of current or potential employees formerly affiliated with the DOD.

Other accredited Federal agencies serviced by the Civil Service Commission but with a need to evaluate the suitability of potential employees formerly affiliated with the DOD.

Congress, including the General Accounting Office.

Veterans Administration.

Specific uses of USAINSCOM Investigative Files are: To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for assignment or appointment to sensitive military duties or to critical sensitive civilian positions by the first four categories of users, above.

To determine the eligibility and suitability of individuals for entry and retention in the Armed Forces by the first and second categories of users, above.

To provide information for ongoing security and suitability investigations being conducted by Federal agencies by the first three categories of users, above.

To provide information to assist Federal agencies in the administration of criminal justice and prosecution of offenders by the first three categories of users, above.

To provide information in judicial or adjudicative proceedings including litigation or in accordance with a court order by the first three categories of users, above.

To make statistical evaluations of investigative activities by all categories of users, above.

To respond to legitimate FOIA and PVA access requests by the first category of users, above.

To provide information in response to Inspector General, Equal Employment Opportunity, other complaint investigations, and Congressional inquiries by the first and fifth categories of users, above.

To determine the eligibility and suitability of an individual for favorable personnel actions in the Armed Forces of the U.S. to include Reserve and National Guard. Unfavorable information may be used as appropriate by personnel decision managers in first and second categories of users, above.

For use in alien admission and naturalization inquiries conducted under Section 105 of the Immigration and

Nationality Act of 1952, as amended, by the third category of users, above.

For use in benefit determinations by the sixth category of users, above.

The distribution of investigative information to other DA activities or outside agencies is based on this agency's evaluation of their needs and the relevance of the information to the use for which it is provided. Information collected for one purpose is not automatically used for the other purposes or by the other users indicated in this description. Transfer of information from this record system to other DOD components is regarded as a routine intra-agency use under the provisions of Title 5 U.S.C., Section 552a(b)(1).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Upon receipt of a valid request for an investigation, the request package is given a control number and placed in a case folder (paper record) together with identification data concerning the subject of the request for investigation and the control number. The request is entered into an automatic data processing (ADP) system (USAINSCOM case control system) which is designed to provide statistical data and case control management information on the number and types of investigations that are opened, currently pending, and closed in USAINSCOM. This ADP system triggers automatic requests upon the Defense Central Index of Investigations (DCII), a master index that holds reference to all DOD investigations conducted by USAINSCOM and the Military Services investigative file repositories. If there are files on the subject, a request is generated by USAINSCOM upon the appropriate repository. Upon review of the request package and other investigative files retrieved through DCII, investigative requirements are then determined by the USAINSCOM Control Office and investigative leads are dispatched to the USAINSCOM field elements and other pertinent Governmental investigative agencies. Upon receipt of the investigative leads at the field level, a duplicate investigative file is prepared by the receiving DIS field element. This file contains investigatory report and case control material pertaining only to the specific investigative leads assigned to the controlling field element. At this point, the USAINSCOM investigative file enters into a pending status. During this pending status, investigative reports are prepared by USAINSCOM field

elements and sent to the control office, based upon record and interview data obtained during the investigation. Upon completion of the investigation, the closed investigative file held by the USAINSCOM Control Office is forwarded thru the IRR to the requester of the investigation. Upon receipt, the requester adjudicates the investigation and returns it to the IRR for retention. The duplicate files prepared by USAINSCOM field elements are destroyed 120 days after the closing.

STORAGE:

Paper records in file folders, rolled microfilm, and microfiche.

RETRIEVABILITY:

File folders are maintained in terminal digit order by regular dossier number and SSN. In order to obtain the dossier number of the subject, at least one personal identifier is required. For those subjects who have no identifying data such as date of birth, military service number or SSN, the name only index is searched. Additionally, a non-standard search is required. The name only index will provide a subject's name and dossier number only. The non-standard search will provide a listing of all subjects with identifying data. In these instances, some other identifying data must be furnished such as address. Dossiers possibly identical with the subject may be forwarded to the requester.

Microfiche files are maintained in duplicate copy in separate locations in Microfilm Division, IRR. The records are maintained in terminal digit order according to regular dossier number or SSN.

Microfilm records are retrieved by name or dossier number.

SAFEGUARDS:

Building 4552, which houses the IRR, is under 24-hour guard and accessible only to authorized personnel. Only individuals accredited as file procurement officers may obtain and review IRR investigative records. Subordinated USAINSCOM elements and other official requesters are required to have General Services Administration-approved containers for the storage of investigative files. Certified mail is used to forward any investigative files to official requesters of USAINSCOM subordinate elements.

RETENTION AND DISPOSAL:

Personnel Security Investigative Files may be retained for 15 years after last action reflected in the file, except that files which resulted in adverse action

against the individual will be retained permanently. However, once affiliation is terminated, acquiring and adding material to the file is prohibited unless affiliation is renewed.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755; Telephone: Area Code 301/677-4742/3.

RECORD ACCESS PROCEDURES:

Requests should be sent to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755.

Written requests for information should contain the full name of the individual, SSN, previous service number (if any), current address, and telephone number. Visits are limited to Building 4552, Ft Meade, MD 20755.

For personal visits, the individual should be able to provide acceptable identification (e.g., driver's license, employing office's identification card) and give verbal information that could be verified with his 'case' folder.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

DOD and Military Department records; Federal agency records; State, county, and municipal records; employment records of private schools, colleges, universities, technical and trade schools; hospital records; real estate agencies; credit bureaus, loan companies, credit unions banks, and other financial institutions which maintain credit information on individuals; transportation companies (airlines, railroads, ect.); other private records sources deemed necessary in order to complete an investigation; miscellaneous records such as: telephone directories, city directories, *Who's Who in America*, *Who's Who in Commerce and Industry*, *Who Knows What*—a listing of experts in various fields, *American Medical Directory*, *Martindale-Hubbell Law Directory*, *US Postal Guide*, *Insurance Directory*, *Dunn and Bradstreet*, and *The US Army Register*; any other type of

miscellaneous record deemed necessary to complete the USAINSCOM investigation; the interview of individuals who have knowledge of the subject's background and activities; the interview of witnesses; the interview of victims; the interview of confidential sources; and the interview of other individuals deemed necessary to complete the USAINSCOM Investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k)(1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER.

A0503.03aDAMI

SYSTEM NAME:

503.03 Department of the Army Operational Support Activities File.

SYSTEM LOCATION:

United States Army Intelligence and Security Command (USAINSCOM), Ft Meade, MD 20755.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected members of the US Army and civilian employees of the Department of the Army (DA) who participate in and have received support for conducting US Army intelligence and counterintelligence duties. Included are personnel of other Federal agencies who have requested and received support from appropriate authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Card file with Automatic Data Processing (ADP) index of individuals who have received support from DA in completing specialized duties within the Army's intelligence and counterintelligence activities.

Card files and duplicate ADP files of individuals indicating any identity and other data which may be used to identify them in their support of DA's intelligence and counterintelligence activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, Sections 2, 3, 4, 5, 6, 7, 8, 9, and 14; Title 10 U.S.C., Section 3012(b)(c)(g); and National Security Act of 1947, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain within records which identify individuals performing duties in DA specialized intelligence and

counterintelligence assignments data to support or refute any possible future claim of the individual to the US Government.

To facilitate administrative actions by providing a reference to names and identities.

To manage individual's career while he is assigned to duties in support of the Army's intelligence and counterintelligence functions. Records provide reference during individual's period of assignment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, vertical card file, ADP printouts, and ADP diskpack.

RETRIEVABILITY:

Files alphabetically by last name of individual. ADP files by social security number (SSN).

SAFEGUARDS:

Material is stored in General Services Administration containers approved for the storage of secret material. Building in which material is stored is locked during hours of nonoccupancy. ADP files are access controlled by a code word issued only to properly screened, cleared, and trained personnel.

RETENTION AND DISPOSAL:

Files are maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Chief of Staff for Intelligence, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755; Telephone: Area Code 301/677-4742/3.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Deputy Commander, United States Army Intelligence and Security Command, ATTN: IACSF-FI, Ft Meade, MD 20755.

Written requests for information must contain the full name and SSN of the individual, current address, and telephone number.

For personal visits, the individual should be able to furnish acceptable identification and give verbal information that could be verified from his file card.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Applications and related information is obtained from the individual; investigative reports of Defense Investigative Service, USAINSCOM, and other Federal and Department of Defense investigative and law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2) or (5), as applicable. For additional information, contact the SYSMANAGER.

AO713.09aTRADOC**SYSTEM NAME:**

713.09 Skill Qualification Test (SQT)

SYSTEM LOCATION:

a. Headquarters, United States Army Training and Doctrine Command (TRADOC), Ft Monroe, VA 23651: Main computer location and soldier response files.

b. United States Army Training Support Center, Individual Training Evaluation Directorate (ITED): Enlisted Master File and original test forms.

c. Test Control Officers (TCO) at military installations worldwide: Transmittal rosters and source documents for Hands-On Component (HOC) and Performance Certification Component (PCC)—(retained 120 days).

d. United States Army Military Personnel Center (MILPERCEN) (Enlisted Evaluation Center): Soldier's SQT scores (DA Form 10a).

e. Supervisory Non-Commissioned Officers (NCOs) at unit level worldwide: SQT Job Books.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active Army and Reserve Component enlisted personnel who take the SQT.

CATEGORIES OF RECORDS IN THE SYSTEM:

Soldier response history of answers to SQTs, both individual and cumulative; quarterly analyses of soldiers' test results. The Enlisted Master File at ITED contains update listings of name, social security number (SSN), pay grade, primary and secondary military occupational specialties (MOS), and component. File in TCO (located at the soldier's installation) contains name,

rank, SSN, and source document for HOC and PCC. SQT Job Book (located at soldier's unit) contains name, rank, and record of individual performance of job tasks conducted in a unit training environment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

ITED, Ft Eustis, VA and Enlisted Records and Evaluation Center, Ft Benjamin Harrison, IN. Individual scores are computed and forwarded to MILPERCEN for entry on DA Form 10a. This score is used to measure a soldier's job proficiency, to determine eligibility for schooling, and eligibility for promotions. SQT Job Books are used by Commanders and NCOs to assess individual and unit proficiency and combat readiness and to identify routine and intensified training needs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders; computer magnetic tape, disks and printouts.

RETRIEVABILITY:

Paper records filed in folders retrieved by processing date and imprinted serial number. Computer magnetic tape and disk retrieved by SSN and name.

SAFEGUARDS:

Paper records are filed in folders stored in a locked room. Magnetic tapes are kept in controlled vault area. Magnetic disks are protected by a user identification and manual controls. Job Books are security maintained as an official unclassified training record.

RETENTION AND DISPOSAL:

Magnetic tapes are retained 1 year after which data are erased; disks retained for 6 months before data are erased; hard copy is retained for 5 years; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, United States Army Training Support Center, ATTN: ITED, Ft Eustis, VA 23604.

NOTIFICATION PROCEDURE:

Information may be obtained from the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the SYSMANAGER. Appropriate identification such as driver's license, is

required if request is presented in person; written requests must bear notarized signature of the individual making request to prevent disclosure to unauthorized persons.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From other department of Army Staff and Commands in document and computer readable form.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All portions of this system are exempt pursuant to Title 5 U.S.C., Section 552a(k)(6). Publication of rules in order to exempt this system is set forth in 32 CFR Part 505.

A1504.08aDAEN**SYSTEM NAME:**

1504.08 Real Estate Outgrants

SYSTEM LOCATION:

Office of the Chief of Engineers (OCE), United States Army Corps of Engineers Division and District Offices with real estate responsibility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grantees of outgrants (leases, licenses, easements, permits, and consents) for use of Government real property, or permission (under consents) for use of property over which the Government holds easement interests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outgrant instruments and listings by number and name to include location, purpose, term and rental for each outgrant and an indication when grantees are not in compliance with term of their outgrants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Outgrants at civil and military installations are issued under the following authorities:

Title 10 U.S.C., Sections 2667, 2668, 2669, 2672, 3012, 4777, 8012, and 9777.

Title 16 U.S.C., Sections 460d and 661 et seq.

Title 30 U.S.C., Section 185.

Title 33 U.S.C., Sections 558b and 558b-1.

Title 40 U.S.C., Sections 319 and 471 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this system is to promote processing of outgrants and to facilitate the administration of the outgrant program.

The machine listing of outgrants (Engineer Form 3560) is used by OCE personnel and District, Division, and Headquarters OCE levels in recording inspections of outgrants and determination of grantees' compliance with terms and conditions of the grant. Though presently used only for civil works projects, it may be used for inspection of military installations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Punch cards in ADP Centers; paper records and computer paper printouts in file folders at the District/Division/OCE Offices.

RETRIEVABILITY:

Numerically, by outgrant number. Numbers may be obtained from an alphabetical listing by name.

SAFEGUARDS:

Automated data are protected by physical security devices which include guards to the buildings, and limited access only to authorized personnel. Access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data handled. Paper records are maintained in areas accessible only to authorized personnel in buildings which either employ security guards or are locked when not in use.

RETENTION AND DISPOSAL:

Outgrants at OCE level are destroyed on termination; remaining files are permanent. Division records are destroyed 4 years after termination of basic instrument. In District Offices and ADP Centers, records are destroyed 3 years after termination of basic instrument.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Programs Division, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Access to records may be gained by contacting the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Outgrants in the names of individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1506.02aDAEN

SYSTEM NAME:

1506.02 Homeowners Assistance Case Files

SYSTEM LOCATION:

Primary System: Homeowners Assistance Division, Real Estate Directorate, Office of the Chief of Engineers (OCE), Department of the Army.

Decentralized Segments: Engineer Division and District Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and military personnel who apply for homeowners assistance benefits pursuant to Section 1013 of Pub. L. 89-754, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the application of persons involved in losses sustained in real estate market because of closure or reduction of military bases. Included are: employment verifications; income and expense figures; Engineer (ENG) Form 42 (Offer to Sell Real Property) or similar written offer; ENG Form 3423 (Negotiator's Report), title evidence and opinions, surveys, leases; ENG Form 798 (Certificate of Inspection and Possession); ENG Form 1568 (Payment and Closing Sheet and Receipt for United States Treasurer's Check); market impact data; insurance and tax data; ENG Form 1290 (Disclaimer by Person in Possession); Department of Defense Form 1607 (Application for Homeowners Assistance); Federal Housing Administration (FHA) Form 1174 (Notification of Military Acquisition) and FHA Form 1175 (Transmittal of Recorded Deed and Title Assembly—Military Acquisition); appraisal reports, docket sheets, questionnaires, copies of deeds and mortgages, mortgage settlement data; evidence of proof of ownership and occupancy of residence, applicant appeals and final decisions thereon; comparable forms and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754 (80 Stat. 1255, 1290), as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Homeowners Assistance Division, OCE: To process applications for homeowners assistance benefits and to consider appeals; to review market studies and appraisals; to review final title assemblies of deeds of conveyance to the Government for properties acquired under the Program.

Corps of Engineers Division and District Offices: To investigate and study potential impact of base closures or reductions based upon personnel data and real estate market conditions; to reply to inquiries; to assist persons in applying for benefits by reviewing applications, determining benefits, furnishing deed, title evidence, name of Government's grantor, name and address of mortgagee, unpaid balance on mortgage, occupancy data, tax information, title opinion and insurance policy; to furnish FHA appropriate papers and to transmit unresolved appeals to OCE.

Department of Housing and Urban Development/FHA: In assuming custody of acquired homes, to manage and dispose of such properties on behalf of the Secretary of Defense.

FHA/Veterans Administration: In accepting subsequent purchaser in private sale when property is encumbered by a mortgage loan guaranteed or insured by them.

Department of Justice: In reviewing final title and deeds of conveyance to the Government for properties acquired under the Program, pursuant to their responsibility under Pub. L. 91-393.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders; magnetic tape, cards or disk.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

Automated data are protected by physical security devices which include guards to the buildings, and limited access only to authorized personnel. Access to or update of information in the system is protected through a system of passwords, thereby preserving

integrity of data handled. Paper records are maintained in areas accessible only to authorized personnel in buildings which either employ security guards or are locked when not in use.

RETENTION AND DISPOSAL:

Office performing Army-wide responsibility: Files are destroyed 10 years after final action or decision on appeals, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief of engineers, Headquarters, Department of the Army, ATTN: DAEN-REH-O, Washington, DC 20314; Telephone: Area Code 202/693-6786.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the Chief of Engineers, Headquarters, Department of the Army, ATTN: DAEN-REHO, Washington, DC 20314.

Written requests should contain the full name of the individual, current address and telephone number, name and location of the installation announced for closure.

Personal visits may be made to the Homeowners Assistance Division, Office, Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314. The individual should be able to provide acceptable identification such as a current driver's license, and provide verbal information that can be verified with case folder.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Individual's application for homeowners assistance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1511.01aDAEN

SYSTEM NAME:

1511.01 Army Housing Information Management System (HIMS)

SYSTEM LOCATION:

Office of the Chief of Engineers, Department of the Army, Washington, DC 20314, and Housing Managers at Army installations worldwide. Official

mailing addresses are in the Department of the Army Directory.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, their dependents; Department of Defense or other key civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for on/off post housing containing such information as name, service/social security number (SSN), rank/grade and date, service date, organization of assignment, home address and telephone number; locator data; appropriate travel orders; records reflecting housing availability/assignment/termination; eligibility of civilians for loan to purchase housing; referral services; property inventories, hand receipts, and issue slips; cost control, job orders; survey data; reports of liaison with real estate boards, realtors, brokers and other Government agencies; other management reports regarding HIMS; complaints and investigations; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Sections 133 and 2674. Department of Defense Instructions 1100.16, 4165.27, 4165.34, 4165.43, 4165.44, 4165.47, and 4165.51.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide information relating to the management, operation, and control of the Army housing program; to provide necessary housing for military personnel, their dependents, and qualified civilian employees; to determine housing adequacy/suitability; to document cost data for alterations/repair of units; to establish rental rates; to provide guidance and referral service; to reflect liaison with real estate boards, brokers, and other Government agencies; to render reports; to investigate complaints and related matters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, file cards, computer tapes, disks and printouts, and punched cards.

RETRIEVABILITY:

By individuals's surname, facility name or number.

SAFEGUARDS:

Automated data are protected by physical security devices which include guards to the buildings, and limited access only to authorized personnel. Access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data handled. Paper records are maintained in areas accessible only to authorized personnel in buildings which either employ security guards or are locked when not in use.

RETENTION AND DISPOSAL:

Installation troop housing files: Destroyed after 3 years.

Installation housing project tenancy files: Destroyed 3 years after termination of quarters occupancy.

Cost control files: Destroyed 11 years after last entry.

Leasing/rental rate files: Destroyed after 10 years.

Housing referral service files: Destroyed after 5 years.

Off-post rental housing reports: Office performing Army-wide staff responsibility: Destroyed after 5 years. Other offices: Destroyed after 3 years.

Off-post housing complaints/investigations: Office performing Army-wide staff responsibility: Destroy 5 years after completion. Other offices: Destroy 2 years after completion.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the Director of Industrial Operations, Office of the Chief of Engineers, or his counterpart in District/Division Offices providing housing service.

RECORD ACCESS PROCEDURES:

An individual's request may be addressed to the Director of Industrial Operations at the appropriate installation, and contain the name and address and last assignment location.

For personal visits, the individual should be able to provide acceptable identification such as valid driver's license or military identification card.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulations 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

The individual, his/her personnel records, tenants/landlords and realty

activities, financial institutions, and previous employers/commanders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-19958 Filed 6-27-79; 8:45 am]

BILLING CODE 3710-08-M

Tripler Army Medical Center, Hawaii; Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969 and in accordance with the President's Reorganization Plan No. 1, the Army on June 22, 1979, provided the Environmental Protection Agency, for filing, a draft Environmental Impact Statement concerning the construction of an addition/alteration project at Tripler Army Medical Center, Hawaii to bring that facility up to current requirements.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested

organizations or individuals may obtain copies from the Hospital Commander, Tripler Army Medical Center, Oahu, Hawaii.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, DA, Room 1E676, Pentagon, Washington, DC 20310 (Phone number 202-694-1163).

Dated: June 15, 1979.

Bruce A. Hildebrand,
Deputy for Environment Safety and Occupational Health.

[FR Doc. 79-20042 Filed 6-27-79; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Settlements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the ERA and the firms listed below during the month of April 1979. The Consent Orders represent settlements between the DOE and the firms which involve a sum of less than \$500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of \$500,000 or more, Notice will be separately published in the Federal Register. These Consent Orders are concerned exclusively with payment of the settlement amounts to injured parties for overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks or prices.

For further information regarding these Consent Orders, please contact Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone number (215) 597-3870.

Firm name and address	Settlement amount	Product	Period covered	Recipients of settlement
Amerigas-Ugite Div., 837 East King Street, Mahvern, Pa.	\$283,348.80	Propane.....	Nov. 1, 1973 through Apr. 25, 1974.	General rollback.
*Gas Oil Products, Inc., 80 Welham Avenue, Glen Burnie, Md. 21061.	90,458.64	Propane.....	Mar. 1, 1974 through Oct. 31, 1976.	General rollback of \$75,826.99. Remaining refund to: Baltimore & Ohio RR., Artery Co., Va. Arts Cr., Md.-Va. Milk Producers, W. R. Grace Co., Courtee Sand & Gravel.
Berks Fuel Storage Co., 4025 Pottsville Pike, Reading, Pa. 19605.	105,250.74	No. 2 fuel oil.....	November 1973 through February 1976.	D. J. Wilman. Refund to: Retail Sale Class, Wholesale Transport Class, Wholesale Underfill Class, Metropolitan Edison (Elyn), Metropolitan Edison (Tyler).

Issued in Philadelphia on the 28th day of May 1979.

Herbert M. Heitzer,
District Manager of Enforcement.

[FR Doc. 79-19982 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

An-Son Corp.; 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: June 4, 1979.

COMMENTS BY: July 30, 1979.

ADDRESS: Send comments to: Mr. Wayne I. Tucker, District Manager of Enforcement, Southwest District, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne I. Tucker, District Manager of Enforcement, Southwest District, (phone) 214-749-7626.

SUPPLEMENTARY INFORMATION: On June 4, 1979, the Office of Enforcement of the ERA executed a Consent Order with An-Son Corporation (An-Son) of Oklahoma City, Oklahoma. Under 10 CFR 205.199](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.

Because of the complex settlement negotiations in this case as well as the concern to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with An-Son effective as of the date of its execution by the DOE and An-Son.

I. The Consent Order

An-Son, with its home office located in Oklahoma City, Oklahoma, is a firm engaged in crude oil production, 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 An-Son, the Office of Enforcement, ERA, and An-Son

entered into a Consent Order, the significant terms of which are as follows:

1. During the audit period September 1973 through June 1977, An-Son sold crude oil from one (1) property at prices greater than allowed by ERA regulations. The firm who was initially overcharged was Koch Oil Company.
2. During the audit period An-Son sold an improper amount of "stripper", "new" and "released" crude oil. These actions by An-Son constituted violations of 10 CFR 212.73.
3. The Consent Order constituted neither an admission by An-son that ERA regulations were violated nor a finding by the ERA that An-Son violated ERA regulations.
4. An-Son has agreed to determine any possible overcharges that occurred subsequent to June 30, 1977. All overcharges computed in DOE's audit and all overcharges computed by An-Son in its subsequent review, plus interest at ERA's specified rates will be deposited in the escrow account within twelve (12) months of the effective date of the Consent Order.
5. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, An-Son 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 \$38,316.27 plus any additional overcharges after June 30, 1977 on or before June 4, 1980. 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 either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. 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 200.199I(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 by 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 Mr. Wayne I. Tucker, District Manager of Enforcement, Southwest District, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214-749-7626.

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 An-Son Consent Order." We will consider all comments we receive by 4:30 a.m., local time, on _____. 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 Dallas, Texas on the 18th day of June, 1979.

Wayne I. Tucker,

District Manager of Enforcement.

[FR Doc. 79-20117 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-79-5]

Issuance of Proposed Decision and Order

Notice is hereby given that the Economic Regulatory Administration has issued to Pennzoil Production Company a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78, the Tertiary Enhanced Recovery Program. Under the provisions of 10 CFR 212.78, such a Decision and Order must be published in the Federal Register. Interested parties have thirty calendar days from the date of publication to submit objections or comments. Upon review of any material submitted, we may issue a final Decision and Order in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or comments will be notified of the action. Objections or comments should cite the Docket Number and be addressed to:

Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461, Attention: Chief, Branch of Crude Oil Production.

As required a copy of the Proposed Decision and Order to Pennzoil Production Company is supplied in this Notice. In addition, a copy of the Proposed Decision and Order, together with a copy of Pennzoil's application is available in the Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C., between 1:00 p.m. and 5:00 p.m., Monday through Friday, and in the Department of Energy Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours 8:00 a.m. and 4:30 p.m., Monday through Friday. The originals of the Decision and Order and application contain information which is arguably confidential under 18 U.S.C. 1905. Such information has been deleted from the copy published in the Federal Register and from the materials placed in the public reading rooms.

Issued in Washington, D.C., June 20, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of
Fuels Regulation, Economic Regulatory
Administration.

**Proposed Decision and Order of the
Department of Energy Application for Price
Incentives; Tertiary Enhanced Project Tinsley
Field-Perry Sand CO₂ PROJECT**

[Docket Number ERA-TA-79-5]

Name of Petitioner: Pennzoil Production
Company.

Background: On March 9, 1979, Pennzoil
Producing Company (Pennzoil) submitted to
the Economic Regulatory Administration
(ERA) of the Department of Energy (DOE) an
application for incentive pricing under the
Tertiary Enhanced Recovery Program of 10
CFR 212.78. The application concerns
proposed crude oil production by miscible
carbon dioxide flooding of the Perry Sand
Formation in a portion of the Tinsley Field of
Yazoo County, Mississippi.

The Tinsley Field, discovered in 1939, has
been Mississippi's largest oil field, having
yielded about 205 million barrels of 39 degree
API moderately sulfurous crude since
discovery. About 12 to 15 million barrels of
reserves remain recoverable by conventional
primary and secondary production methods.
The field, of about 15,000 acres, is divided by
faulting into three segments: North, West and
East.

The proposed project lies in part of the
Perry-Woodruff Water-flood Unit in Tinsley
Field's West Segment. The Unit recovers
crude from the Woodruff Sand at a depth of
4,500-4,600 feet and from the Perry Sand at
4,850-4,900 feet. Pennzoil operates the Units
and has a 73 percent working interest among
31 working interest owners.

The original of this Decision and Order
contains information which is arguably
confidential under 18 U.S.C. 1905. Such
information has been deleted from this copy.

The project area of 1,120 acres at the north
end of the Perry-Woodruff Unit will recover
crude from the Perry Sand. Of about 400
wells completed in Tinsley Field, 90 are in the
Perry Sand, and of these 39 are in the project
area. The pilot area is enclosed by faults on
three sides and an oil-water contact on the
fourth.

Of about 28,650,000 barrels of oil originally
in place in the project area, 3,412,000 have
been recovered by primary methods and
1,625,000 by secondary waterflooding. An
estimated _____ barrels remain
economically recoverable by secondary
methods. The target of the proposed CO₂
project is a portion of the 23,000,000 barrels
remaining in place.

Pennzoil requests that the pricing
incentives of Section 212.78 be granted for the
incremental crude oil production from this
project. In support of this request Pennzoil
has furnished information describing its
analysis of the characteristics of the Perry
Sand formation. Stratigraphy, rock and fluid
properties have been evaluated and
additional analyses have been performed by
a reputable outside laboratory. Wherever
certain analytic methods yielded inconclusive
results, others were employed to secure

confirmation. Pennzoil discusses its methods
and tabulates the results in its application.

Pennzoil has presented its workplan and
time schedule for the Tinsley Field Perry
Sand Project and has estimated the crude oil
production probabilities under optimistic
(maximum), most likely, and minimum
performance and risk assumptions. Carbon
dioxide will be injected as a dense gas at a
bottom hole pressure of 3,650 pounds per
square inch (gauge) until about 7 percent
hydrocarbon pore volume (HCPV) is
achieved, to be followed by alternating slugs
of water and CO₂ until 20 percent HCPV of
CO₂ has been injected. This procedure is
estimated to create from _____ to _____
barrels of recoverable reserves. The most
likely result is to create _____ barrels of
recoverable reserves over a fifteen year
project life.

Pennzoil has affirmed that an adequate
supply of CO₂ is obtainable for the project
from a source some 40 miles distant from the
project. Pennzoil includes the construction of
a pipeline from that source to the project in
its project plan.

The State of Mississippi Oil and Gas Board
(Board) has reviewed Pennzoil's proposal for
the Tinsley Field-Perry Sand Project. The
Board confirms the existence of reserves of
CO₂ within the State and the conformance of
Pennzoil's operations with State regulatory
requirements. The Board states that the
project should be encouraged.

Pennzoil states that all environmental
restrictions have been satisfied and that
permits have been obtained from local, state,
and federal agencies affected for river
crossings of the proposed CO₂ pipeline. The
Board states that it is "not apprehensive"
about possible environmental pollution and
that Pennzoil "has proved over the years" to
be a strict adherent to state regulations.

Findings and Analysis

A. Section 212.78 provides that the
"incremental crude oil" from a "qualified
tertiary enhanced recovery project" may be
sold at prices not subject to the ceiling price
limitations of Subpart D of Part 212. In order
for crude oil production from a particular
project to be priced in accordance with the
price rule of § 212.78, ERA must certify the
project as a qualified tertiary enhanced
recovery project. Prior to granting this
certification, § 212.78(d) requires ERA to
determine that (1) the project involves one of
the enhanced oil recovery techniques listed in
the definition of a qualified tertiary recovery
project set forth in § 212.78(e) and (2) the
project would not be economic at the
otherwise applicable ceiling prices. If ERA
grants certification, it must also determine
the amount of nonincremental crude oil (as
defined in § 212.78(c)) that will result from
the project.

B. Pennzoil has submitted information
indicating that it will employ miscible fluid
displacement with respect to the Tinsley
Field-Perry Sand Project. Inasmuch as
miscible fluid displacement is one of the
techniques listed in § 212.78(c), we have
determined that the Tinsley Field-Perry Sand
CO₂ Project meets the first requirement for

certification as a qualified tertiary enhanced
recovery project.

C. Pennzoil has submitted information
indicating that the Tinsley Field-Perry Sand
Project will be an uneconomic venture unless
the market price is available for incremental
crude oil from the project. Pennzoil has
observed the recommended guidelines and
has presented a description and assessment
of technical uncertainties and risks entailed
by the project, together with a display of a
range of possible production responses by the
Perry Sand to the CO₂ injection program.

The submittal indicates a remote possibility
that the project would be economic under
ceiling price controls if none of the risks and
uncertainties proved unfavorable and the
reservoir response was the maximum
possible. However, the most likely case
would result in a negative rate of return over
the expected fifteen year life of the project.
The data submitted indicate further that, in
order to yield a rate of return equivalent to a
risk free venture, the amount of crude oil
produced by the project would need to
exceed the most likely case by about _____
percent. *With incentive prices*, under the
most likely oil recovery estimate, Pennzoil
indicates that the project would yield a
discounted net cash flow rate of _____ percent.

Based on the information submitted by
Pennzoil, we have determined that the
Tinsley Field-Perry Sand CO₂ Project meets
the second requirement for certification,
namely that the project is uneconomic under
current price controls.

D. Inasmuch as the requirements for
certification have been satisfied, we are
proposing to certify the Tinsley Field-Perry
Sand CO₂ Project as a qualified tertiary
enhanced recovery project. The price for
incremental crude oil from this project would
be determined in accordance with the price
rule of § 212.78.

E. Section 212.78(d) requires ERA to
determine, at the time that it certifies a
project as a qualified tertiary enhanced
recovery project, the amount of incremental
and non-incremental crude oil (as defined in
§ 212.78(c)) that will result from that project.
In general, the incremental crude oil resulting
from a new project is the amount of crude oil
which will be produced by the tertiary project
which exceeds the amount that would have
been produced by continuing the pre-tertiary
project method of production. Because
Pennzoil's application indicates that field
work will commence in the third quarter of
1979 and is likely to alter production patterns
from the Perry Sand thereafter, we have
determined the amounts of non-incremental
crude from August, 1979 through December,
1985, and have set forth those amounts in the
Proposed Order. These amounts were
calculated from the forecasts of annual
production of non-incremental crude
furnished by Pennzoil. Conversion to monthly
estimates was performed by an interpolation
of monthly values adjusted for days in the
month.

F. Section 205.98 sets forth the procedures
for entering objection or comment on this
Proposed Decision and Order. Objections or
comments must be received in the designated
office in ERA within thirty calendar days

from the date of publication in the Federal Register of the Proposed Decision and Order. All submissions with respect to this application will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and in the Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C., between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday.

It is, therefore, ordered that: 1. The Tinsley Field-Perry Sand CO₂ Project, operated by Pennzoil for itself and other working interests, producing crude oil from the Perry Sand of the Tinsley Field in Yazoo County, Mississippi is declared to be a qualified Tertiary Enhanced Recovery Project within the meaning of 10 CFR 212.78.

2. Crude oil produced each month from the Tinsley Field-Perry Sand Project in excess of the following schedule of "Non-Incremental Crude" is not subject to the ceiling price limitations of 10 CFR, Part 212, Subpart D.

Monthly Non-Incremental Crude Volumes

Year	Month	Barrels
79	Aug	7,967
	Sep	7,620
	Oct	7,781
	Nov	7,440
	Dec	7,595
1980	Jan	7,502
	Feb	6,931
	Mar	7,316
	Apr	6,990
	May	7,130
	Jun	6,810
	Jul	6,975
	Aug	6,882
	Sep	6,570
	Oct	6,727
	Nov	6,420
	Dec	6,572
1981	Jan	6,479
	Feb	5,796
	Mar	6,324
	Apr	6,060
	May	6,200
	Jun	5,910
	Jul	6,045
	Aug	5,983
	Sep	5,760
	Oct	5,890
	Nov	5,640
	Dec	5,786
1982	Jan	5,704
	Feb	5,096
	Mar	5,611
	Apr	5,370
	May	5,487
	Jun	5,363
	Jul	5,363
	Aug	5,301
	Sep	5,070
	Oct	5,177
	Nov	4,950
	Dec	5,053
1983	Jan	4,991
	Feb	4,452
	Mar	4,867
	Apr	4,650
	May	4,743
	Jun	4,530
	Jul	4,588
	Aug	4,526
	Sep	4,290
	Oct	4,371
	Nov	4,170
	Dec	4,216
1984	Jan	4,154
	Feb	3,828
	Mar	4,030
	Apr	3,810

Monthly Non-Incremental Crude Volumes—
Continued

Year	Month	Barrels
	May	3,875
	Jun	3,690
	Jul	3,782
	Aug	3,751
	Sep	3,600
	Oct	3,689
	Nov	3,540
	Dec	3,627
1985	Jan	3,596
	Feb	3,108
	Mar	3,565
	Apr	3,420
	May	3,503
	Jun	3,360
	Jul	3,441
	Aug	3,410
	Sep	3,270
	Oct	3,379
	Nov	3,240
	Dec	3,317
	Thereafter	0

3. The Base Production Control Level (BPCL) for the Perry-Woodruff Unit upon and after issuance of this Order shall be the BPCL for that property prior to such issuance, provided that:

(i) The separately measured total production from that unit, (other than the Tinsley Field-Perry Sand CO₂ Project), plus the "Non-Incremental Crude" as shown in the schedule in 2 above, shall be credited against the BPCL, and

(ii) Pennzoil hereafter measures the production from the Tinsley Field-Perry Sand Project separately from the production from the Perry-Woodruff Unit that excludes production from the Tinsley Field-Perry Sand Project.

4. This certification is based on the presumed validity of statements, assertions, and documentary materials submitted by Pennzoil. It is based on Pennzoil's implicit assurance that all actual and projected costs reported by the firm have been determined on an arm's length basis and represent fair and reasonable market price valuations for the expenditures involved, that all actual and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost revenue and production estimates are reasonably accurate.

5. This Order will continue in effect from the date of this Order so long as Pennzoil pursues the carbon dioxide miscible program in the Perry Sand of the Tinsley Field within the project area described in its application, provided that it may be revoked or modified at any time upon a determination that the factual basis underlying the application is materially incorrect.

Issued in Washington, D.C. June 22, 1979.

Doris J. Dewton,
Acting Assistant Administrator, Office of
Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-20120 Filed 6-27-79; 8:45 am]
BILLING CODE 6450-01-M

Louis H. Haring, Jr., 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 and 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: June 18, 1979.

COMMENTS BY: July 30, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.—(214) 749-7626.

SUPPLEMENT INFORMATION: On June 18, 1979, the Office of Enforcement of the ERA executed a Consent Order with Louis H. Haring, Jr. of San Antonio, Texas. Under 10 CFR 205.199(j)(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

Louis H. Haring, Jr., with its office located in San Antonio, Texas, is an individual engaged in crude oil production, 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 crude oil sales, the Office of Enforcement, ERA, and Louis H. Haring, Jr., entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September, 1973 through September, 1978 and it included all sales of crude oil which were made during that period.

2. Louis H. Haring, Jr. improperly applied the provisions of 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess

of the maximum lawful sales prices resulting in overcharges to its purchaser of crude oil from the *Mary R. Dean* Lease.

3. Louis H. Haring, Jr. has agreed to make the full refund of \$150,996.55 plus interest to the U.S. Treasury. The refund will be made in quarterly payments beginning July 31, 1979 and continuing until the full amount is paid on April 30, 1981. A detailed schedule of the refund payments is contained in the Consent Order.

4. The sales of crude oil determined by DOE to be in violation were made to a refiner, and because the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205 Subpart V as provided below.

5. 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, Louis H. Haring, Jr. 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 \$150,996.55 plus interest on or before April 30, 1981. 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 either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. 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 205.199j(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 making of proof of claims may be established. Failure by 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 Wayne L. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 749-7626.

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 Louis H. Haring, Jr. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on

_____. 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 Dallas, Texas on the 20th day of June, 1979.

Wayne L. Tucker,

District Manager of Enforcement, Southwest District, Economic Regulatory Administration.

[FR Doc. 79-20118 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-028]

System Fuels, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

System Fuels, Inc. filed an application for certification of an eligible use of natural gas to displace fuel oil with the Administrator of the Economic Regulatory Administration (ERA)

pursuant to 10 CFR Part 595 on May 30, 1979. Notice of that application was published in the *Federal Register* (44 FR 35003, June 18, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments have been received to date.

The Administrator has carefully reviewed the application of System Fuels, Inc. in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that System Fuels' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

System Fuels' application involves the potential immediate displacement of approximately 17,000 barrels per day of distillate fuel. The maximum displacement of distillate fuel oil under this certification will occur now, in the summertime, to meet peak load conditions. Since middle distillate fuel oil is in short supply throughout the nation, it is in the public interest to free-up as much existing supply for high-priority uses. Therefore, this certification is being issued prior to the expiration of the 10-day public comment period because of the public interest in the immediate displacement of such a large volume of distillate fuel oil proposed by System Fuels. Public comments will still be accepted by ERA for the remainder of the original 10-day comment period in view of the ability of the Administrator to terminate a certification for good cause (10 CFR 595.06).

Issued in Washington, D.C. June 22, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Re: ERA Certification of Eligible Use, ERA Docket No. 79-CERT-028, System Fuels, Inc.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the Commission. This certification is required by the Commission as a precondition to interstate transportation of fuel oil

displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F (FERC Order No. 30, 44 FR 30323, May 25, 1979). As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone (202) 254-9730. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-028.

Sincerely,

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement

[ERA Docket No. 79-CERT-028]

Application for Certification

Pursuant to 10 CFR Part 595, an application was filed by System Fuels, Inc. on May 30, 1979, for certification of an eligible use of up to 120,000 Mcf of natural gas per day by its parent companies, Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc., and by Arkansas-Missouri Power Company, all operating electric generating companies of Middle South Utilities, Inc. The application lists the various facilities located in Missouri, Arkansas, Louisiana, and Mississippi of the above companies that will use the gas. The application states that the eligible sellers of the gas are Channel Industries Gas Company, Louisiana Intrastate Gas Corporation, and Louisiana Resources Company and the gas will be transported by United Gas Pipe Line Company, Tennessee Gas Pipeline Company, Florida Gas Company, and Arkansas-Louisiana Gas Company. Attached to the application was an affidavit stating, among other things, that it was anticipated that the natural gas will displace at least 1,500,000 barrels of middle distillate, including No. 2 fuel oil, during the next 12 months in addition to a presently undetermined quantity of residual fuel oil. The affidavit also states that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 120,000 Mcf of natural gas per day by Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service Inc., and Arkansas-Missouri Power Company at

their facilities listed in the application and purchased from Channel Industries, Louisiana Intrastate Gas Corporation, and Louisiana Resources Company is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F.

Issued in Washington, D.C. June 22, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-20119 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TC79-134]

Arkansas Louisiana Gas Co.; Proposed Tariff Filing Revising Curtailment Priorities

June 21, 1979.

Take Notice that Arkansas Louisiana Gas Company (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, on June 18, 1979, tendered for filing the following Revised Tariff Sheets to be filed in its FERC Gas Tariff First Revised Volume No. 1:

4th Revised Sheet No. 3A, Superseding 3rd Revised Sheet No. 3A;

4th Revised Sheet No. 3B, Superseding 3rd Revised Sheet No. 3B

5th Revised Sheet No. 3C, Superseding Substitute 4th Revised Sheet No. 3C

The proposed effective date for these sheets is 30 days after the filing or such later date as the Commission orders, but not later than November 1, 1979. Arkla has filed the above-revised Tariff Sheets in order to modify its curtailment plan as prescribed in Order No. 29 (18 CFR § 281.201, *et seq.*), which was issued on May 2, 1979, in Docket No. RM79-15 by the Commission pursuant to the provisions of Sections 401 and 402 of the Natural Gas Policy Act of 1978 (NGPA). The above-noted Tariff Sheets and pertinent attachments are on file with the Commission, and open to public inspection.

The revised order of priorities set forth in Arkla's 4th Revised Sheets Nos. 3A and 3B is as follows:

Priority 1.1—Residential; all small commercial requirements of less than 50 Mcf per peak day.

Priority 1.2—All other commercial requirements (including schools, hospitals, and similar institutions), plant protection, small industrials with total requirements of up to 300 Mcf per day, and other uses the

curtailment of which the Secretary of Energy or FERC determines would endanger life, health, or maintenance of physical property.

Priority 2.1*—Essential agricultural uses as defined in section 401 of the Natural Gas Policy Act of 1978 which cannot use an alternate fuel.

Priority 2.2*—Essential industrial process and feedstock uses as defined in section 402 of the Natural Gas Policy Act of 1978 which cannot use an alternate fuel.

Priority 2.3—Other feedstock and process needs and pipeline customer storage injection requirements.

Priority 3—Industrial requirements not covered elsewhere.

Priority 4—Industrial requirements for boiler fuel use of more than 300 Mcf per day but not more than 1,500 Mcf per day.

Priority 5—Industrial requirements for boiler fuel use of more than 1,500 but not more than 3,000 Mcf per day.

Priority 6—Industrial requirements for boiler fuel use of more than 3,000 Mcf per day.

*When it is necessary to curtail loads in each of these priorities, the large requirements that normally use more than 3,000 Mcf per day will be curtailed before the smaller loads.

Arkla has attached to its revised sheets as Attachment (D) a set of specific implementation schedules showing the customers who will be effected most by the plan and such information as the volumes of gas to which each will be entitled at varying levels of availability for each priority.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before June 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. 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. 79-20057 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL79-20]

Buckeye Power, Inc. v. Cincinnati Gas & Electric Co.; Complaint

June 20, 1979.

Take notice that Buckeye Power, Inc. on June 7, 1979, tendered for filing a complaint against the Cincinnati Gas & Electric Company (CG&E) pursuant to Section 306 of the Federal Power Act.

Buckeye indicates that it requested CG&E to establish a new delivery point pursuant to § 4.3(c)(ii) of a Power Delivery Agreement dated January 1, 1968 between the parties. Buckeye further indicates that CG&E has refused to establish the requested delivery point under the Agreement and that such refusal is a violation of § 4.3(c)(ii) of the Agreement.

Buckeye requests that the Commission compel CG&E to comply with the provisions of the Agreement by establishing the delivery point requested by Buckeye, order CG&E to establish a physical connection of its transmission facilities pursuant to the terms and provisions of the Agreement and take such action as may be necessary or appropriate under Section 314 of the Federal Power Act to enforce compliance with the Agreement.

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, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 23, 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. 79-20059 Filed 6-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-440]

Commonwealth Edison Co. of Indiana, Inc.; Filing

June 22, 1979.

The filing Company submits the following:

Take notice that Commonwealth Edison Company of Indiana, Inc. on June 18, 1979, tendered for filing proposed changes in its FERC Electric Service Tariff No. 7. The proposed change would extend the term of the Electric Service Agreement under which Commonwealth Edison Company of Indiana, Inc. supplies electricity from its State Line Station to Commonwealth Edison Company. A copy of the filing has been served upon Commonwealth Edison Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with §§ 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 July 13, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-20058 Filed 6-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EL79-21]

New England Power Co.; Proposed Sale of Electric Facilities

June 22, 1979

Take notice that New England Power Company (NEPCO) on June 12, 1979, tendered for filing an application pursuant to Section 203 of the Federal Power Act for the sale of certain electric facilities to the Water and Light Department of the Town of Littleton, New Hampshire.

NEPCO indicates that these facilities have been utilized by NEPCO in providing wholesale electric service to Littleton. NEPCO indicates that Littleton currently receives 100% of its purchased power requirements from NEPCO via these facilities.

NEPCO states that sale of these facilities will permit Littleton to decrease its cost of purchased power through the consolidation of metering points and will enable Littleton to service additional customers located along and in proximity to the facilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, D.C. 20426, in accordance with §§ 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 July 16, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-20060 Filed 6-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EL79-17]

Swan Lumber Co.; Declaration of Intention

June 20, 1979.

Take notice that on April 16, 1979 the Swan Lumber Company filed a declaration of intention to construct a hydroelectric facility on the Pistol River in Curry County, Oregon. The declaration of intention was filed under section 23(b) of the Federal Power Act, 16 U.S.C. 817(b), and requests the Federal Energy Regulatory Commission to commence an investigation to determine if an FERC license will be required for the project. Correspondence with Swan Lumber Company should be directed to Robert J. Swan, 13285 SW Bull Mountain Road, Tigard, Oregon 97223 and Robert R. Swan, Swan Lumber Company, Box 909, Brookings, Oregon 97415.

The proposed project would consist of a 20-foot-high concrete gravity diversion dam, located at Pistol River mile 6.0, which would divert water into a canal running alongside the Pistol River for a distance of approximately 3,000 feet. The project penstocks and powerhouse would be located at the downstream end of the canal. The powerhouse would contain three turbines and generators.

as well as control devices and switch gear. The water would be discharged from the turbines directly into the Pistol River. A four-mile transmission line to be built by the Coos-Curry Electrical Cooperative (Coos-Curry) would connect the powerhouse to Coos-Curry's main distribution line. The proposed project would develop an effective head of 110 feet, and would have an installed capacity of 8,500 kW.

Swan Lumber Company plans to sell the project power to the Pacific Northwest Generating Company, of which Coos-Curry is a member cooperative.

Anyone desiring to be heard or to make any protest about this declaration of intention should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR 1.10 or 1.8 (1978). 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 or petition to intervene must be filed on or before July 30, 1979. After this date the Commission will investigate the proposed development and determine whether an application for a FERC license will be required for the project.

The declaration of intention is on file with the Commission and is available for public inspection. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-20061 Filed 6-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-439]

Tampa Electric Corp.; Filing

June 22, 1979.

The filing Company submits the following:

Take notice that on June 14, 1979, Tampa Electric Company (TECO) tendered for filing a revision to the daily capacity charge for its scheduled interchange service to Florida Power & Light Company and Florida Power Corporation under interconnection agreements between the three companies. According to TECO, the revised charge of \$88.45 per MW per day is based on 1978 data and is derived according to the same method shown in cost support schedules submitted with the interconnection agreements. According to TECO, the present daily capacity charge based on 1976 data is \$93.78 per MW per day.

TECO requests that the revised daily capacity charge be made effective on May 1, 1979 and requests waiver of the 60-day notice requirement.

According to TECO, the filing has been served on Florida Power & Light Company and Florida Power Corporation and the Florida Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before July 13, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission

will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by TECO are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-20062 Filed 6-27-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of May 25 Through June 1, 1979

Notice is hereby given that during the week of May 25, 1979 through June 1, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

List of Cases Received by the Office of Hearings and Appeals

[Week of May 25, 1979 through June 1, 1979]

Date	Name and location of applicant	Case No.	Type of submission
May 29, 1979	Whitaker Oil Co., Atlanta, Ga.	DSG-0054	Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the denial by DOE Region IV of the Application to Quash a Subpoena which was submitted by Whitaker Oil Co.
May 30, 1979	Burk, Levy & Smith Washington, D.C.	DFA-0437	Appeal of an Information Request Denial. If granted: The DOE's May 3, 1979 Information Request Denial would be rescinded and Burk, Levy & Smith would receive access to certain DOE gasoline sales information.
May 31, 1979	Belcher Oil Co., Florida Power & Light Co., Miami, Fla.	DRZ-0192	Interlocutory Order. If granted: A Proposed Decision and Order issued to Belcher Oil Co. would be remanded; Florida Power & Light Co. would receive access to supplemental information prior to filing a Statement of Objections.
Do	Chevron U.S.A., Inc., San Francisco, Calif.	DES-0214, DST-0214.	Request for Temporary Stay; Request for Stay. If granted: Chevron U.S.A., Inc. would receive a temporary stay and stay of the provisions of 10 CFR 212.83 which pertain to the inclusion of factors relating to its production of carbon dioxide in its calculations of prices under the refiner price rule.
Do	Gulf Oil Co., Houston, Tex.	DEA-0441	Appeal of DOE Decision and Order. If granted: The DOE's April 24, 1979 Decision and Order regarding Gulf Oil Co.'s supply obligations to Palm Oil Co. would be rescinded.
Do	Pester Oil Co., Des Moines, Iowa	DEA-0439, DES-0439.	Appeal of ERA Order and Request for Stay. If granted: The Decision and Order issued to the Pester Oil Co. on April 2, 1979, regarding its motor gasoline supply obligations to Kemco Petro Inc., would be modified. A stay would be granted pending a final determination on the firm's Appeal.

List of Cases Received by the Office of Hearings and Appeals

[Week of May 25, 1979 through June 1, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Do	True Oil Co., Casper, Wyo.	DFA-0438	Appeal of an Information Request Denial. If granted: The DOE's April 23, 1979 Information Request Denial would be rescinded and True Oil Company would receive access to certain DOE data pertaining to a Notice of Probable Violation issued to the firm by DOE Region VIII.

Notices of Objection Received

Date	Name and location of applicant	Case No.
May 30, 1979	Culpepper, Elton L., Walterboro, S.C.	DEE-3270
Do	Moody Oil Co., Hollywood, S.C.	DEE-2831
Do	Noland's Mobil, Copley, Ohio	DEO-0223
Do	Vaughn Oil Co., Omaha, Nebr.	DEE-2358
Do	White's Chevron Service, Robertsdale, Ala.	DEE-3959
Do	Smith Bros. Petroleum, Olathe, Kans.	DEE-2887
Do	Texaco, Inc., White Plains, N.Y.	DEE-1673

Proposed Remedial Orders

Date	Name and location of applicant	Case No.
May 29, 1979	Atlantic Richfield Co., Los Angeles, Calif.	DRO-0193
Do	Exxon Company, U.S.A., Washington, D.C.	DRO-0221
Do	Gulf Oil Corp., Houston, Tex.	DRO-0194
Do	Marathon Oil Co., Findlay, Ohio	DRO-0195
Do	Standard Oil Co. of California and Chevron U.S.A., San Francisco, Calif.	DRO-0196
Do	Standard Oil Co. of Ohio, Cleveland, Ohio	DRO-0197
Do	Standard Oil Co. of Indiana, Chicago, Ill.	DRO-0198
Do	Texaco, Inc., White Plains, N.Y.	DRO-0199
May 30, 1979	Wood, Dalton J., Shreveport, La.	DRO-0222

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of May 25 Through June 1, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product allocation Regulations with respect to motor gasoline.

May 29, 1979

Abston, James W.	DEE-5960	05/25/79	Arkansas
Acme Rubbish	DEE-5965	05/25/79	California
Adler Ledoux Tire & Supply, Inc.	DEE-5964	05/25/79	Louisiana
Aire Sheet Metal, Inc.	DEE-5794	05/25/79	California
Berg's Shell Service	DEE-5968	05/25/79	Oregon
Charlie's Standard Service	DEE-4395	05/25/79	Missouri
Cheatham Oil Co.	DEE-5597	05/25/79	Iowa
Clark, Stanley	DEE-5986	05/25/79	California
Dick's Arco Mini-Mart & Gas	DEE-5740	05/25/79	Pennsylvania
Eitzman Oil Co.	DEE-5967	05/25/79	Idaho
Gordon's Standard Station	DEE-5944	05/25/79	Wisconsin
Hollypark Car Wash	DEE-5970	05/25/79	California
Land O' Lakes, Inc.	DEE-5972	05/25/79	District of Columbia
Lee Oil Co.	DEE-5963	05/25/79	Tennessee
Lyon's Gulf Service Station	DEE-5969	05/25/79	Texas
Master's Market	DEE-5961	05/25/79	New Jersey
Mini-Serve	DEE-5971	05/25/79	Texas
North Washington Conoco	DEE-5886	05/25/79	Colorado
Oklahoma Refining Co.	DEE-5974	05/25/79	Oklahoma
R. J. Shell & Son, Inc.	DEE-5750	05/25/79	North Carolina
Rose Distributors	DEE-5962	05/25/79	California
Seminole Petroleum Co.	DEE-5966	05/25/79	Florida
Sicilian, John	DEE-5973	05/25/79	California
Tidmore Oil Co.	DEE-6022	05/25/79	District of Columbia
Wills, Roberta J.	DEE-5928	05/25/79	California

May 28, 1979

Lyon Oil Co.	DEE-6149	05/28/79	West Virginia
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May 29, 1979

A-Doc Oil Co.	DEE-6028	05/29/79	New Mexico
Armies Truck Plaza	DEE-6001	05/29/79	North Dakota
Auburn Mini-Market Jr.	DEE-6021	05/29/79	Washington
Auto Club Services Corp.	DEE-6009	05/29/79	Michigan
Beachner	DEE-6016	05/29/79	Louisiana
Bill & Andy's Inc.	DEE-6005	05/29/79	Massachusetts
Brannon Service Center	DEE-6108	05/29/79	Texas
Cal's Casselberry Service Center	DEE-6014	05/29/79	Florida
Canoga Roscoe Car Wash	DEE-6026	05/29/79	California

May 29, 1979—Continued

Circle Arco.....	DEE-6036.....	05/29/79.....	New Jersey
Conzemius Oil Co.....	DEE-6011.....	05/29/79.....	Minnesota
Dillman's Arco & Mini-Market.....	DEE-6010.....	05/29/79.....	California
Doucette's Auto Parts.....	DEE-6004.....	05/29/79.....	Louisiana
Douglas, E. L.....	DEE-6017.....	05/29/79.....	Georgia
Edlene's Shell Service.....	DEE-5992.....	05/29/79.....	California
Environmentals Inc.....	DEE-5995.....	05/29/79.....	California
Flash Car Wash.....	DEE-6034.....	05/29/79.....	Nevada
Gaela's Arco.....	DEE-6029.....	05/29/79.....	Massachusetts
Garotte Garage.....	DEE-6107.....	05/29/79.....	California
Giannoulakis, George.....	DEE-6032.....	05/29/79.....	Florida
Hakimian, Mahoug.....	DEE-6002.....	05/29/79.....	California
Hall, Albert.....	DEE-5989.....	05/29/79.....	Tennessee
Havard Oil Company.....	DEE-6003.....	05/29/79.....	Texas
Herbert Young Gulf Station.....	DEE-6111.....	05/29/79.....	Texas
Holiday Foods, Inc.....	DEE-6136.....	05/29/79.....	Iowa
Ihinger Texaco.....	DEE-6012.....	05/29/79.....	Ohio
John King Shell.....	DEE-5991.....	05/29/79.....	Michigan
Key's Korner.....	DEE-5998.....	05/29/79.....	Florida
Keenan's Sunoco.....	DEE-6007.....	05/29/79.....	Massachusetts
Knox Oil of Texas, Inc.....	DEE-6008.....	05/29/79.....	Texas
Laguna Hills Medical Arts Center.....	DEE-6027.....	05/29/79.....	California
Mario's Arco.....	DEE-6018.....	05/29/79.....	California
McMurrough Mercantile.....	DEE-6113.....	05/29/79.....	Texas
Morris Johnson Chevron.....	DEE-6109.....	05/29/79.....	California
Morris Oil Company.....	DEE-5997.....	05/29/79.....	Minnesota
Mountain View Grocery.....	DEE-6114.....	05/29/79.....	California
Page's Mobil Service.....	DEE-6024.....	05/29/79.....	California
Parros & English Car Wash.....	DEE-6013.....	05/29/79.....	California
Pepe's Standard.....	DEE-5988.....	05/29/79.....	Wisconsin
Phillip David Dowd Sunoco.....	DEE-6124.....	05/29/79.....	Indiana
Randall Shell Service, Inc.....	DEE-6006.....	05/29/79.....	Massachusetts
Samir's Shell Service.....	DEE-5990.....	05/29/79.....	California
Sanders Oil Co.....	DEE-6019.....	05/29/79.....	Mississippi
Security Oil & Storage.....	DEE-6030.....	05/29/79.....	Arizona
Service Oil Company.....	DEE-5996.....	05/29/79.....	Pennsylvania
Slauson Car Wash.....	DEE-6023.....	05/29/79.....	California
Smcester Oil Company.....	DEE-6015.....	05/29/79.....	Michigan
Sultan Imperial Car Wash.....	DEE-6020.....	05/29/79.....	California
Sumter Oil & Gas Co., Inc.....	DXE-6025.....	05/29/79.....	South Carolina
Super Auto Service.....	DEE-6033.....	05/29/79.....	California
System 99.....	DEE-6141.....	05/29/79.....	Washington
Texaco Self-Service Station.....	DEE-5999.....	05/29/79.....	Texas
Town of Mansfield, Mass.....	DEE-6115.....	05/29/79.....	Massachusetts
Tulio's Auto Enterprises.....	DEE-6110.....	05/29/79.....	California
Western Manufacturing Co.....	DEE-5987.....	05/29/79.....	California
Wilson's Amoco, Inc.....	DEE-5993.....	05/29/79.....	Maryland

May 30, 1979

A A Grocery.....	DXE-6146.....	05/30/79.....	Texas
Agents Alliance, Inc.....	DEE-6087.....	05/30/79.....	California
Allinder's Services.....	DXE-6066.....	05/30/79.....	Missouri
Allon's Gulf Service.....	DEE-6083.....	05/30/79.....	Texas
Begeneb Realty Corp.....	DEE-6050.....	05/30/79.....	New York
Boldon Roofing & Remodeling.....	DEE-5994.....	05/30/79.....	Texas
Best Oil Co.....	DEE-6071.....	05/30/79.....	Tennessee
Bob Leo's Inc.....	DEE-6157.....	06/30/79.....	Florida
Eowen's Grocery.....	DEE-6091.....	06/30/79.....	Maine
Britt, James M.....	DEE-6039.....	05/30/79.....	Tennessee
Burnsed Petroleum Corp.....	DEE-6074.....	05/30/79.....	Louisiana
C & R Gulf Station.....	DEE-6059.....	05/30/79.....	Louisiana
C & S Chemical Co.....	DEE-6121.....	05/30/79.....	Arkansas
C. & W. Parking.....	DEE-6068.....	05/30/79.....	Florida
Carbo's Arco.....	DEE-6093.....	05/30/79.....	California
Charles F. Argon & Co.....	DEE-6139.....	05/30/79.....	Pennsylvania
Cloudburst Car Wash.....	DEE-6057.....	05/30/79.....	California
Confederate Shell Service.....	DEE-6153.....	05/30/79.....	California
Convenience Stores of CA, Inc.....	DEE-6045.....	05/30/79.....	Louisiana
Daigh Automotive Engineering.....	DEE-6038.....	05/30/79.....	California
Dales Minimarket.....	DEE-6117.....	05/30/79.....	California
Delozier, Jerry Stephen.....	DXE-6067.....	05/30/79.....	Pennsylvania
Don's Shell #3.....	DEE-6120.....	05/30/79.....	Georgia
Duncan & Son Petroleum, Inc.....	DEE-6065.....	05/30/79.....	California
Elliott Oil Company.....	DEE-6052.....	05/30/79.....	California
Fulter Oil Co., Inc.....	DEE-6085.....	05/30/79.....	South Carolina
Galkup-Silkworth.....	DEE-6317.....	05/30/79.....	Alabama
Garnett Davis, Mrs. J.....	DEE-6075.....	05/30/79.....	Michigan
General Tire & Rubber Co.....	DEE-6054.....	05/30/79.....	Virginia
Glenn Oil Co.....	DEE-6061.....	05/30/79.....	Texas
			Oklahoma

May 30, 1979—Continued

Graham's Tele-Eureka Shell	DEE-6058	05/30/79	Michigan
Greenlawn Transport	DEE-6078	05/30/79	Ohio
Hams Service	DEE-6043	05/30/79	South Dakota
Hottman Company	DEE-6106	05/30/79	Colorado
Hupp-Wilbert Vault Co., Inc.	DEE-6048	05/30/79	Ohio
J & R Texaco	DEE-6094	05/30/79	Maryland
J-T Finish Carpentry, Inc.	DEE-6086	05/30/79	California
Jim Smith's Car Care Center	DEE-6084	05/30/79	Texas
Jock's Arco Service	DEE-6100	05/30/79	New York
Johns Texaco	DEE-6063	05/30/79	California
Jones, M.V.	DEE-6055	05/30/79	Texas
Kate & Bill's Country Stores	DEE-6150	05/30/79	Florida
Kettle Moraine Standard	DEE-6144	05/30/79	Wisconsin
King, Jack	DEE-6060	05/30/79	Alabama
Lefeman Oil Co.	DEE-6069	05/30/79	South Dakota
Lilley's I-65 Standard	DEE-6123	05/30/79	Indiana
Lyon's Ready Mix, Inc.	DEE-6119	05/30/79	Arkansas
M & A Arco	DEE-6051	05/30/79	New York
Maver's Arco Service, Inc.	DEE-6118	05/30/79	Delaware
Mecosta Country Road Commission	DEE-6092	05/30/79	Michigan
Mike Cook Chevron Service	DEE-6104	05/30/79	California
Moore	DEE-6070	05/30/79	Texas
N. E. Jones Oil Co.	DEE-6062	05/30/79	Texas
North Jeffco Metro. Rec. & Park	DEE-6097	05/30/79	Colorado
Pam Oil, Inc.	DEE-6042	05/30/79	South Dakota
Parker Amoco Service Station	DEE-6037	05/30/79	Virginia
Parry's Volume Arco	DXE-6073	05/30/79	California
Phillip & Munzel Shell	DXE-6147	05/30/79	Florida
Picozzi's Service Station	DEE-6096	05/30/79	New York
Plaza Car Wash	DEE-6095	05/30/79	California
Prudential Insurance Co. of America	DEE-6080	05/30/79	California
Purkey's Standard Service	DEE-6099	05/30/79	Indiana
Quality Oil Company	DEE-6098	05/30/79	North Carolina
Rainbow Car Wash	DEE-6044	05/30/79	South Dakota
Red Cloud Exxon Service	DEE-6047	05/30/79	California
Rex's Kerr McGee	DEE-6046	05/30/79	South Dakota
Riverdale Chevron	DXE-6122	05/30/79	Georgia
Rossan, Inc.	DEE-6079	05/30/79	California
Sea Shell Car Wash	DXE-6072	05/30/79	Florida
Stecht, Ronald O.	DEE-6288	05/30/79	Kentucky
Siltner Arco Mini Mart	DEE-6040	05/30/79	Washington
Stockman Oil Two, Inc.	DEE-6101	05/30/79	South Carolina
Ted's Rent-A-Car	DEE-6105	05/30/79	California
Tolan, G. J.	DEE-6064	05/30/79	Tennessee
Town of Georgetown	DEE-6152	05/30/79	Indiana
Tradelpha Distributing Co., Inc.	DEE-6082	05/30/79	Virginia
Utotem	DEE-6143	05/30/79	Texas
Voght, John H.	DEE-6056	05/30/79	California
Walker Oil Co., Inc.	DEE-6090	05/30/79	Missouri
Wetzel Brothers, Inc.	DEE-6102	05/30/79	Maryland
Westwood Mohawk Service	DEE-6089	05/30/79	California
Wilkins, Earl	DEE-6041	05/30/79	Alabama
Wormack Construction Co., Inc.	DEE-6049	05/30/79	Nevada
Wright's 21st St. "66" Service	DEE-6053	05/30/79	Texas

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Allen Oil Co.	DEE-6132	05/31/79	Florida
Associated Hospital Services	DEE-6128	05/31/79	Louisiana
Berberich's Delivery Co.	DEE-6134	05/31/79	Missouri
Bnar Vista Chevron	DXE-6125	05/31/79	Georgia
Coco Gulf Service	DEE-6127	05/31/79	Louisiana
Columbia Amoco	DEE-6129	05/31/79	Maryland
East End Arco Market	DEE-6130	05/31/79	Pennsylvania
Feagan's Sunoco Station	DEE-6140	05/31/79	Kentucky
Fullerton Rental & Ready Mix	DEE-6306	05/31/79	California
G. L. Spencer & Co.	DEE-6155	05/31/79	Washington
Gray Oil Company	DXE-6138	05/31/79	Georgia
Hayes, James W.	DEE-6307	05/31/79	Nevada
Larry Barrett Truck/Auto Service	DEE-6142	05/31/79	California
Mancas Mobil Service	DEE-6126	05/31/79	Texas
Reese, Henry	DEE-6158	05/31/79	New York
Roe Enterprises, Inc.	DEE-6133	05/31/79	Iowa
Wilson, J. E.	DEE-6135	05/31/79	Maryland
Wwczar, Michael	DEE-6131	05/31/79	New York
Young, J. C.	DEE-6156	05/31/79	Tennessee

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Allen, Larry.....	DEE-5918.....	06/01/79.....	Louisiana
Central N.Y.S. Park&Rec. Com.....	DEE-6183.....	06/01/79.....	New York
City of Industry Disposal Co.....	DEE-6161.....	06/01/79.....	California
Dick Valley Texaco.....	DEE-6175.....	06/01/79.....	Pennsylvania
Edgewater Standard Service.....	DEE-6172.....	06/01/79.....	Florida
Excelsior Super Shell.....	DEE-6267.....	06/01/79.....	California
Greenwood Oil Company, Inc.....	DEE-6232.....	06/01/79.....	Pennsylvania
Hebert's Gulfpride Service.....	DEE-6171.....	06/01/79.....	Louisiana
Interstate United.....	DEE-6173.....	06/01/79.....	Indiana
Israel De Leon Service Center.....	DEE-6179.....	06/01/79.....	California
Johnnie's Arco.....	DEE-6174.....	06/01/79.....	Connecticut
Johnson Roofing Inc.....	DEE-6176.....	06/01/79.....	Texas
Knox Street Mobil.....	DEE-6168.....	06/01/79.....	Texas
Lakeview Marina, Inc.....	DEE-6180.....	06/01/79.....	Texas
Larry's Orangevale Tire No. 2.....	DEE-6166.....	06/01/79.....	California
Long Island Tourism Commission.....	DEE-6227.....	06/01/79.....	New York
McNeese Exxon Service Station.....	DEE-6170.....	06/01/79.....	Louisiana
Musolino & Sons, Inc.....	DEE-6199.....	06/01/79.....	Virginia
Plaza Gulf, Inc.....	DEE-6164.....	06/01/79.....	Florida
Thrasher Arco Service.....	DEE-6167.....	06/01/79.....	Massachusetts
Tigre Island Fuyl Service, Inc.....	DEE-6169.....	06/01/79.....	Louisiana

June 21, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 79-20008 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Task Groups of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a task group and subcommittee of the Committee on Materials and Manpower Requirements have scheduled meetings in August 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Business Environment Task Group. The subcommittee scheduling a meeting is the Government Subcommittee. The time, location and agenda of the meetings follows:

The fourth meeting of the Business-Environment Task Group is scheduled for Thursday, August 2, 1979, starting at 9:00 a.m., Main Conference Room, General Crude Oil Company, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review of information collected for the Task Group's consideration.
3. Review of schedule for completion of assignment of the Business Environment Task Group.

4. Discussion of any other matters pertinent to the overall assignment of the Business Environment Task Group.

The fifth meeting of the Government Subcommittee is scheduled for Thursday, August 9, 1979, starting at 9:00 a.m., Main Conference Room, General Crude Oil Company, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review the progress of the Business Environment and Regulatory Impact Task Groups.
3. Review the timetable of the Government Subcommittee.
4. Discussion of any other matters pertinent to the overall assignment of the Government Subcommittee.

The meetings are open to the public. The chairman of the task force and the chairman of the subcommittee are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task force or subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meetings and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue,

SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on June 20, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

June 20, 1979

[FR Doc. 79-20115 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Task Groups of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a task group of the Committee on Materials and Manpower Requirements, scheduled to meet in June 1979, has rescheduled its meeting for August 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group rescheduling a meeting is the Regulatory Impact Task Group. The time, location and agenda of the meeting follows:

The fifth meeting of the Regulatory Impact Task Group, scheduled for Friday, June 22, 1979, is hereby cancelled and is rescheduled for Friday, August 3, 1979, starting at 10:00 a.m. in Conference Room 2826, on the 28th Floor

of the Tenneco Building, 1010 Milam Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review of information collected for the Task Group's consideration.
3. Review of schedule for completion of assignment of the Regulatory Impact Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Regulatory Impact Task Group.

The meeting is open to the public. The chairman of the task force is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task force will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on June 20, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

June 20, 1979.

[FR Doc. 79-20116 Filed 6-27-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1258-7)

Clean Air Act Provisions; Areas Not Attaining National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Notice of Headquarters memorandum on Clean Air Act Sanctions.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 restrict major construction activities and certain Federal funding programs if, after June 30, 1979, a State Implementation Plan has not been approved by EPA for an

area that has not attained National Ambient Air Quality Standards. The memorandum reproduced below discusses the applicability and timing of these construction and funding sanctions.

FOR FURTHER INFORMATION CONTACT:

The appropriate EPA Regional or Headquarters Office:

Frank Ciavattieri, Chief, Air Branch, EPA Region I, JFK Federal Building, Boston, Massachusetts 02203 (617) 223-6383 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).
William S. Baker, Chief, Air Programs Branch, EPA Region II, 29 Federal Plaza, New York, New York 10097 (212) 264-2517 (New York, New Jersey, Puerto Rico, Virgin Islands).

Howard Heim, Chief, Air Branch, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106 (215) 597-8175 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia).

Winston Smith, Chief, Air Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308 (404) 881-3043 (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina).

Steve Rothblatt, Chief, Air Branch, EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2205 (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin).

Jack Divita, Chief, Air Branch, EPA Region VI, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2742 (Arkansas, Louisiana, Oklahoma, New Mexico, Texas).

William Spratlin, Chief, Air Support Branch, EPA Region VII, 324 East 11th Street, Kansas City, Missouri 64106 (816) 374-3781 (Nebraska, Iowa, Kansas, Missouri).

Robert DeSpain, Chief, Air Branch, EPA Region VIII, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-3471 (Montana, Utah, North Dakota, South Dakota, Wyoming, Colorado).

Arnold Dan, Chief, Air Technical Branch, EPA Region IX, 215 Fremont Street, San Francisco, California 94105 (415) 556-7882 (California, Nevada, Arizona, Hawaii, American Samoa, Guam, Northern Mariana Islands).

Clark Gaulding, Chief, Air Programs Branch, EPA Region X, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-1230 (Alaska, Washington, Oregon, Idaho).

G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, EPA Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5365 or 541-5226 (Headquarters).

SUPPLEMENTARY INFORMATION: I have recently sent a memorandum to the EPA Regional Administrators addressing the July 1, 1979 construction restrictions and funding sanctions of the Clean Air Act. To assure rapid and thorough

dissemination of this important memorandum, I am having it published today in the Federal Register. EPA considers this memorandum to state "nationally applicable" Agency policy, but not "regulations promulgated, or final action taken, by the Administrator" that is ripe for judicial review under the first sentence of section 307(b)(1) of the Act [42 U.S.C. 7607(b)(1)]. EPA will shortly publish rulemaking notice to implement this policy and to provide for public comment where necessary.

A recent decision of the Court of Appeals for the District of Columbia Circuit established that the classes of major stationary sources subject to stringent controls under the Act must be defined somewhat differently from the way EPA had been defining them. *Alabama Power Co. v. Costle*, No. 78-1006 (D.C. Cir., June 18, 1979). EPA will shortly issue a statement explaining the effect of this decision on the classes of sources subject to various requirements under the Act, including the construction restrictions discussed in the memorandum reprinted below.

Dated: June 22, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

U.S. Environmental Protection Agency, Office of Air, Noise, and Radiation

June 8, 1979.

Subject: Impact of Clean Air Act Nonattainment Sanctions.

From: David G. Hawkins, Assistant Administrator for Air, Noise and Radiation (ANR443).

Memo to: Regional Administrator, Regions I-X.

There is substantial concern and confusion over what will happen to new construction on July 1, 1979, if States have not by then satisfied the State Implementation Plan (SIP) requirements of Part D of Title I of the Clean Air Act. Regional Administrators should take action to inform the States and the concerned public that, although very few State plans will have been approved by July 1, construction of major air pollution sources will not stop as of that date. In addition, there will be no immediate curtailment of State program grants or other Federal funds. In fact, I do not expect major disruptions of industrial or State activities where States are making reasonable and expeditious efforts toward submitting an approvable State Implementation Plan revision.

This memorandum sets forth Agency policy and procedures regarding the July 1, 1979 sanctions. Three main topics are addressed: *Construction Prohibitions* (permit processing, sources affected and geographic applicability); *SIP Approvals* (area specific approval, conditional approval, and area redesignation); and *Federal Funding Sanctions* (discretionary aspects).

Summary

The imposition of the Clean Air Act sanctions depends on whether by July 1, 1979, a State has an approved State Implementation Plan that meets the requirements of Part D of the Act. The first step in this SIP approval process involves State development and submission of a State plan. The EPA Regional Office then evaluates the submitted plan and publishes in the Federal Register a proposal for final action on the State plan. This starts to 30-to-60-day period for public comment. After reviewing the comments, the EPA Administrator will take final action. Final action will consist of one or a combination of the following actions: approval of the nonattainment plan as a whole, approval of the plan for specific areas, conditional approval of the plan, disapproval of the plan as a whole, or disapproval for specific areas. Most States will not have final approvals on July 1. However, although the areas subject to sanctions are defined based on their status on July 1, the impact of the sanctions in those areas is not immediate.

The Act establishes two kinds of sanctions—new major source construction sanctions and funding sanctions for Federal programs and facilities. The construction prohibition sanction becomes applicable on July 1, and remains in effect until a final Federal Register notice is issued approving or conditionally approving the SIP for the area in question. The construction prohibition applies only to permits applied for after June 30, 1979. Because a typical permit requires approximately three months for processing, it is unlikely that this sanction would have any impact until September or October 1979. Also, although the administrative process for Federal funding sanctions must begin on July 1 for the Section 176 transportation and air pollution control related funds, actual withholding will not occur for at least two to four months after July 1. Any discretionary withholding of sewage treatment construction funds under Section 316 will not occur for at least the same length of time.

Construction Prohibitions

The Clean Air Act's prohibition against construction applies to a major new or modified source for which a complete permit application is submitted to the permit review agency after June 30, 1979. Therefore, any complete permit application postmarked or received on or before June 30, 1979 will not be subject to any construction prohibition.¹ The permit review agency may process all such permit applications received on or before June 30, 1979. No source which receives such a permit and which commences on a program of continuous construction will be subject to the construction sanction.

After June 30, 1979, sources may continue to submit New Source Review permit applications to the permit review agency. The submission of a permit application will enable the review agency to process the

permit so that administrative time is not lost while a State nonattainment plan is being reviewed. Because the administrative time for reviewing a major source can take three months or longer, in many cases, we expect to have SIPs approved by the time the major source permit would itself be ready for approval. If any State intends to issue a permit to a source to which the construction prohibition applies, the permit must contain a condition which prohibits construction until SIP approval is obtained. For a source to be able to construct as soon as a SIP is approved, the permit conditions would have to be consistent with the requirements that are eventually approved in the SIP.

The EPA Regional Offices will continue to process and issue PSD permits (under 40 CFR 52.21, Regulations for the Prevention of Significant Deterioration of Air Quality) even while awaiting receipt or approval of nonattainment SIP revisions. A PSD permit is required whenever a major source, (defined for PSD purposes at 40 CFR 52.21(b)), impacts an area with air quality better than NAAQS. This affects sources both inside and outside designated nonattainment areas. When a PSD source will be subject to the Part D prohibition against construction the EPA-issued PSD permit will be conditional. A permit condition will be included which will make the following statement:

This source will significantly impact a nonattainment problem in an area currently designated as violating the National Ambient Air Quality Standard for _____, and for which the Clean Air Act currently prohibits construction of this source until a State submits and receives approval of a State Implementation Plan which meets the requirements of Part D of the Act. This permit is issued conditional on your receipt of an appropriate State permit issued pursuant to regulations approved by the Administrator as meeting the requirements of Part D of the Clean Air Act. Source construction is prohibited until the State Implementation Plan is approved by the Administrator as meeting such requirements for the nonattainment area that this source will impact. You will be notified by mail when the necessary State regulations have been approved.

The construction prohibition applies only to major sources as defined in Section 302 of the Act. Smaller sources are not affected. Furthermore, the construction prohibition applies only to a source that would be a major source or major modification for the specific pollutant for which the area was designated as a nonattainment area and for which the plan remains inadequate. For instance, a new plant which is a major source of particulate matter only and which proposes to construct in a designated sulfur dioxide nonattainment area is not affected by the construction prohibition.

The construction prohibition affects any major new or modified source that would cause or contribute to a National Ambient Air Quality Standard violation in the designated nonattainment area within the State in which the source proposes to locate. EPA believes that this prohibition applies, as a matter of law, to sources whose permits are

applied for after June 30, 1979. The Administrator is expected to publish a ruling to this effect in the Federal Register in the near future. A major source that would cause a new NAAQS violation outside of a designated nonattainment area or that would significantly contribute to a NAAQS violation only in another State is subject to the Offset Interpretative Ruling of January 16, 1979 (44 FR 3274) but is not subject to a construction prohibition.

The Agency intends to propose, in the Federal Register, that the Part D prohibition on construction should apply equally for sources outside designated nonattainment areas as it applies to a major source locating inside a designated nonattainment area. EPA will also propose that only sources with a significant impact on a violation be subject to the construction prohibition. A source will generally be considered to contribute significantly to a NAAQS violation if its modeled impacts exceed the significance levels found in the Offset Interpretative Ruling of January 16, 1979 (44 FR 3274, at 3283). However, any major source of a designated nonattainment pollutant that proposes to locate at a site already violating NAAQS within the designated nonattainment area is presumed to contribute significantly to the violation without regard to modeled impacts. The rule would be proposed to apply to a new or modified source if the permit application for the source is submitted after June 30, 1979. The construction prohibition would apply to any major source outside a designated nonattainment area if the source would significantly contribute to a NAAQS violation within a designated nonattainment area.

State Implementation Plan Approvals

Source specific and area specific impacts of the Part D sanctions are discussed above. This next section addresses Federal Register actions that alleviate sanction imposition: area specific SIP approvals, conditional SIP approvals, and nonattainment area redesignations. First, however, a summary of relevant Federal Register actions is appropriate.

A list of nonattainment areas was published March 3, 1978 in the Federal Register (43 FR 8982). A number of modifications have been made or proposed for changes to the initial listing. SIP approvability guidance was published in the Federal Register on May 19, 1978 (43 FR 21673) and February 9, 1979 (44 FR 8311). The General Preamble for proposed rulemaking on the approval of plan revisions for nonattainment areas was published April 4, 1979 (44 FR 20372).

Once a State plan for a designated nonattainment area is approved as meeting Part D requirements, the construction or funding sanctions that would or may have taken effect after June 30, 1979 no longer apply. The Agency will approve SIP revisions for any portion of the State or nonattainment area where the revisions meet the requirements of Part D of the Act. Thus, a State plan submission for several designated nonattainment areas may be approved while plan development or approval may still be

¹ When an applicant can show a reasonable and good faith effort to submit all information necessary for permit issuance, the permitting authority may consider a substantially complete permit application as adequate to avoid the prohibition against construction.

underway for other areas. This would in effect be an area specific approval of the SIP, as revisions for other areas would remain necessary. Sanctions would only affect those areas for which the plan remains inadequate. Thus, if there are three designated SO₂ nonattainment areas and SIP revisions are approved for two, the Part D sanctions apply only with regard to the remaining nonattainment area.

Where appropriate, the Agency intends to grant conditional approvals of SIP revisions. A SIP containing minor deficiencies will be approved on the condition that the State submit corrections by a specified date. A conditional approval would not result in sanctions unless the State failed to submit corrections by the specified date, or unless the corrections were ultimately determined to be inadequate. However, *proposing* in the Federal Register to conditionally approve a SIP does not act to alleviate Part D sanctions. The required imposition of Part D sanctions ends only with final SIP *approval* or conditional approval. Conditional approval will not be granted without strong assurance by the appropriate State officials that the deficiencies will be corrected. The form of this assurance may vary from State to State, but it must nevertheless represent a commitment on the part of the State. A conditional approval will require specific schedules for correcting deficiencies.

Another mechanism that would act to alleviate the Part D sanctions is that of revising a previous designation of nonattainment. In developing a SIP revision for a designated nonattainment area, the State may determine that the existing designation is inappropriate. If this occurs, the State may submit the EPA a revised designation with supporting material. Until EPA finds the revised designation acceptable and promulgates it, the July 1 deadline for approval of a SIP revision satisfying Part D, and the attendant sanctions, will continue to apply. However, the SIP submittal may simply demonstrate that the standard is attained and that no additional emission reductions or preconstruction review requirements need to be included in the SIP. Also, a source is exempt if in fact it would not cause or contribute to a violation, regardless of the applicable designation.

Federal Funding Sanctions

Air pollution control program grants, Federal highway funds, and wastewater treatment facility grants do not immediately stop as of July 1, 1979, where nonattainment SIP revisions have not been approved. Required and authorized restrictions on grants and funds where SIPs are inadequate are found in Sections 176(a) and 316 of the Act.

Federal funding limitations required by Section 176(a) will only be applied if the EPA finds after July 1, 1979, that the Governor has not submitted, or is not making reasonable efforts to submit, a SIP which considers each of the elements required by Section 172 of the Act. The EPA is authorized to make the same finding with respect to the 1982 SIP revisions required in areas that cannot attain National Ambient Air Quality Standards by 1982. In

cases where a finding is made by EPA, project approvals and grants authorized by Title 23 (Highways), United States Code, and the Clean Air Act must be withheld from air quality control regions where transportation control measures are needed to attain NAAQS. An exception to this Federal assistance limitation is that safety, mass transit, and transportation improvement projects related to air quality attainment or maintenance may be approved and funded.

EPA and the Department of Transportation (DOT) are preparing a Federal Register notice proposing policy and procedures for applying Federal assistance limitations in Section 176(a). Public comment will be invited and considered in finalizing the policy. EPA will propose to make case-by-case determinations of good faith efforts based on the State's efforts to submit a SIP satisfying pertinent guidance issued by EPA. Negotiations with affected State and local agencies will precede any decision to apply funding limitations. EPA intends to propose initial Section 176(a) findings between September 1 and October 31, 1979 in the Federal Register and invite public comment prior to promulgating a final list of affected areas. However, the funding limitations would be effective on the date of publication of the proposed list. Removal of funding limitations will also be done through Federal Register publication and an opportunity for public comment will be provided prior to final action.

Section 316 of the Act provides that the Administrator may condition, restrict or withhold EPA grants for the construction of sewage treatment works in any area where a SIP has not been approved or where the SIP does not account for the direct or indirect emissions from the treatment works. Unlike the new source construction prohibition, the implementation of any action pursuant to Section 316 is not mandatory on July 1, but is at the discretion of the Administrator. EPA is preparing a Federal Register notice inviting public comment on the development of an administrative mechanism to implement the provisions of Section 316. The interim policy for the implementation of Section 316, while revisions to existing construction grant regulations are being completed, will be proposed in July. Further guidance on this matter will be forthcoming in the next several weeks.

Any decision to stop grant funding under any provision of the Act will be made only after coordination among the Regional Office, Headquarters, and affected State and local agencies.

Federal Register Notice

In order to assure thorough dissemination of Agency policy and procedures regarding the requirements and impacts of Part D of the Act, I am having this memorandum published in the Federal Register.

cc: The Administrator
M. Durning
J. Bernstein
W. Barber

Director, Air & Hazardous Materials
Division, Region IX
[FR Doc. 79-20093 Filed 6-27-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1248-6]

Implementation Plan Revisions for Nonattainment Areas in New York State; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency announces today that the New York State plan revisions, for the Niagara Frontier, due for submittal by January 1, 1979 under the requirements of the Clean Air Act, as amended August 7, 1977, have been received and are available for public inspection. A notice of proposed rulemaking describing the revisions will be published in the Federal Register at a later date at which time the public will be formally invited to submit written comments; the period for the submittal of written comments will extend until August 27, 1979.

ADDRESSES: The Niagara Frontier submittals may be examined during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10007.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

New York State Department of Environmental Conservation, 50 Wolf Rd., Albany, New York 12233.

New York State Department of Environmental Conservation, 584 Delaware Avenue, Buffalo, New York 14202.

All comments should be addressed to: Eckardt C. Beck, Regional Administrator, Region II Office, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended August 7, 1977, requires that states submit revisions to their implementation plans by January 1, 1979 to provide for attainment of national ambient air quality standards in areas designated as nonattainment. The Administrator

designated a number of areas in the Niagara Frontier as nonattainment on March 3, 1978 (43 FR 8962). These were subsequently modified and further clarified on January 25, 1979 (44 FR 5119). New York State has responded to this requirement by preparing implementation plan revisions. The purpose of this notice is to call the public's attention to the fact that these revisions have been formally submitted and are available for public inspection. A description of the revisions will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

Dated: June 8, 1979.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

Eckardt C. Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-18752 Filed 6-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1258-8]

Management Advisory Group to the Municipal Construction Division; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Municipal Construction Division will be held at the EPA Regional Office, JFK Federal Building, Boston, Massachusetts on July 31 through August 2, 1979. The Meeting will begin at 9:00 a.m.

The purpose of the meeting is to discuss and review the following: Multi-Purpose Projects, Industrial Cost Recovery, Minority Business Enterprise Participation, 301(h) Ocean Discharge, Report of the Association of State and Interstate Water Pollution Control Administrators, Operation "PUMP" (Program to Untangle Municipal Projects) of the American Consulting Engineers Council, Quality Maintenance, Waste Load Allocations, State Delegation Agreements, Innovative/Alternative Technologies, Sludge and Publicly-owned Treatment Works Study. There will also be MAG Sub-Committee Task Force Meetings on various aspects of the Construction Grants Program.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Executive Secretary, Mr. Harold P. Cahill, Jr., Director, Municipal Construction Division, EPA,

Washington, D.C. 20460. The telephone number is area code 202-426-8986.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

July 21, 1979.

[FR Doc. 79-20094 Filed 6-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1258-4; PF-37A]

Pesticide Programs; Filing of Feed Additive Petition Amendment

On May 26, 1976, the Environmental Protection Agency (EPA) announced (41 FR 21689) that Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, had submitted a petition (FAP 6H5131) which proposed to amend 21 CFR 561.20 by permitting the use of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) on growing oranges, lemons, and grapefruit with a tolerance limitation for the insecticide and its cholinesterase-inhibiting metabolite *O,S*-dimethyl acetylphosphoramidothioate in the processed feed dried citrus pulp of 1 part per million. The applicant has submitted an amendment to increase the tolerance level of the insecticide and its cholinesterase-inhibiting metabolite *O,S*-dimethyl acetylphosphoramidothioate in the processed feed dried citrus pulp from 1 part per million to 3 parts per million (ppm) of which no more than 1 ppm is the metabolite. Notice of this submission is given pursuant to section 409(b) (5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Mr. William Miller, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460, or by telephone at 202/426-9458. Written comments should bear a notation indicating the petition number "FAP 6H5131". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: June 21, 1979.

Douglas D. Camp,

Director, Registration Division.

[FR Doc. 79-20091 Filed 6-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1258-5; OTS-46003A]

Toxic Substances; Postponement of Public Meeting Date

On May 9, 1979, the Environmental Protection Agency (EPA) proposed Health Effect Test Standards for Toxic Substances Control Act Test Rules and proposed Good Laboratory Practice Standards for Health Effects (44 FR 27334). These proposed standards pertain to the development of data on the chronic health effects of chemical substances and mixtures for which testing will be required under Section 4 of the Toxic Substances Control Act (TSCA).

At that time, EPA announced that public meetings on the proposal would be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. These meetings have been postponed, and the new dates will be announced in the Federal Register when EPA proposes test standards for other health effects testing in July.

FOR INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances [TS-799], Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone No. 800-424-9065 [toll-free]. [In Washington, D.C., call 544-1404].

Dated: June 21, 1979:

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79-20092 Filed 6-27-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-1; Released June 25, 1979]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Notice is hereby given, that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after August 8, 1979. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on August 8, 1979, which

involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. not later than the close of business on August 8, 1979.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on August 8, 1979.

Federal Communications Commission.
William J. Tricarico,
Secretary.

- BPH-780914AG (WMDI), McKean, Pennsylvania, Mikro-Dawn, Inc., Has: 102.3 MHz; Channel No. 272A, ERP: 1.5 kw; HAAT: 400 Ft. (LIC), Req: 102.3 MHz; Channel No. 272A, ERP: .473 kw; HAAT: 668 Ft.
- BPH-780929AM (new), Bellows Falls, Vermont, W.T.L.J., Broadcasting, Inc., Req: 107.1 MHz; Channel No. 296A, ERP: .65 kw; HAAT: 574 Ft.
- BPH-781023AS (WCSJ-FM), Morris, Illinois, Grundy Communications, Inc., Has: 104.7 MHz; Channel No. 284B, ERP: 3.4 kw; HAAT: 105 Ft. (LIC), Req: 104.7 MHz; Channel No. 284B, ERP: 6.76 kw; HAAT: 107 Ft.
- BPH-781214AD (new), Columbia, Louisiana, KCTO Broadcasting Company, Req: 103.1 MHz; Channel No. 276A, ERP: 3 kw; HAAT: 288 Ft.
- BPH-790108AE (new), Cresson, Pennsylvania, Sherlock-Hart Broadcasting, Inc. Req: 94.3 MHz; Channel No. 232A, ERP: .600 kw; HAAT: 600 Ft.
- BPH-790108AP (WVCA-FM) Gloucester, Massachusetts, Simon Geller, Has: 104.9 MHz; Channel No. 285A, ERP: 3 kw; HAAT: 50 Ft. (LIC), Req: 104.9 MHz; Channel No. 285A, ERP: 3 kw; HAAT: 261 Ft.
- BPH-790131-AB (WBGY), Tullahoma, Tennessee, Quin-ABI Broadcasting, Inc., Has: 93.3 MHz; Channel No. 227C, ERP: 100 kw; HAAT: 230 Ft. (LIC), Req: 93.3 MHz; Channel No. 227C, ERP: 100 kw; HAAT: 639 Ft.
- BPH-790212AD (WKAU-FM), Kaukauna, Wisconsin, Forward Communications Corporation, Has: 104.9 MHz; Channel No. 285A, ERP: 3 kw; HAAT: 200 Ft. (LIC), Req: 104.9 MHz; Channel No. 285A, ERP: 1.02 kw; HAAT: 480 Ft.
- BPH-790212AE (new), Florence, Oregon, Visionary Radio Euphonics, Inc., Req: 104.7 MHz; Channel No. 284C, ERP: 96.4 kw; HAAT: 1567 Ft.
- BPH-790212AG (new), Winfield, Kansas, Hawks Communications, Inc., Req: 105.5 MHz; Channel No. 288A, ERP: 3 kw; HAAT: 183 Ft.
- BPH-790214AD (KGOL), Lake Jackson, Texas, John Brown Broadcasting, Inc., Has: 107.3 MHz; Channel No. 297C, ERP: 28 kw; HAAT: 180 Ft. (LIC), Req: 107.3 MHz; Channel No. 297C, ERP: 100 kw; HAAT: 943.6 Ft.
- BPH-790214AG (new), Tehachapi, California, Tehachapi Broadcasting, Req: 103.1 MHz; Channel No. 276A, ERP: .068 kw; HAAT: 1526 Ft.
- BPH-790222AF (new), Dumas, Arkansas, Alan W. & Craig L. Eastham, Req: 107.1 MHz; Channel No. 296A, ERP: 2.74 kw; HAAT: 160.5 Ft.
- BPH-790226AC (KAJN-FM), Crowley, Louisiana, Rice Capital Broadcasting Co., Inc., Has: 102.9 MHz; Channel No. 275C, ERP: 100 kw; HAAT: 450 Ft. (LIC), Req: 102.9 MHz; Channel No. 275C, ERP: 100 kw; HAAT: 1497 Ft.
- BPH-790226AE (new), Brawley, California, Imperial Valley Magic FM, Req: 96.1 MHz; Channel No. 241 B, ERP: 50 kw; HAAT: 232.3 ft.
- BPH-790226AH (new), St. Ignace, Michigan, Maumee Valley Broadcasting Ass'n., Req: 102.9 MHz; Channel No. 275 C, ERP: 100 kw; HAAT: 300 ft.
- BPH-790226AK (WMBL-FM), Morehead City, North Carolina, Carteret Broadcasting Company, Inc., Has: 95.9 MHz; Channel No. 240 A, ERP: 3 kw; HAAT: 280 ft. (LIC) (Morehead, North Carolina), Req: 95.9 MHz; Channel No. 240 A, ERP: 3 kw; HAAT: 281 ft. (Morehead City, North Carolina).
- BPH-790228AH (new), Delta, Colorado, Delta Radio Company, Req: 95.3 MHz; Channel No. 237 A, ERP: 3 kw; HAAT: 37 ft.
- BPH-790301AL (new), Nantucket, Massachusetts, Home Service Broadcasting Corp., Req: 93.5 MHz; Channel No. 228 A, ERP: 1.18 kw; HAAT: 445 ft.
- BPH-790302AA (new), Aberdeen, Washington, KBKW, Inc., Req: 99.3 MHz; Channel No. 257 A, ERP: 3 kw; HAAT: -16.5 ft.
- BPH-790305AK (WFJA), Sanford, North Carolina, WWGP Broadcasting Corporation, Has: 105.5 MHz; Channel No. 288 A, ERP: .49 kw; HAAT: 340 ft. (LIC), Req: 105.5 MHz; Channel No. 288 A, ERP: 1.78 kw; HAAT: 377 ft.
- BPH-790308AC (new), Dover-Foxcroft, Maine, Frank Alvin Delle, Jr., Req: 103.1 MHz; Channel No. 276 A, ERP: 3 kw; HAAT: 286 ft.
- BPH-790308AG (new), Pierre, South Dakota, Pierre Radio, Inc., Req: 95.3 MHz; Channel No. 237 A, ERP: 2.7 kw; HAAT: -197 ft.
- BPH-790308AH (new), Taft, California, Valley FM Radio, Req: 103.9 MHz; Channel No. 280 A, ERP: 3 kw; HAAT: 261 ft.
- BPH-790308AK (WCOW-FM), Sparta, Wisconsin, Sparta-Tomah Broadcasting Company, Has: 97.1 MHz; Channel No. 246 C, ERP: 47 kw; HAAT: 360 ft. (LIC), Req: 97.1 MHz; Channel No. 246 C, ERP: 42 kw; HAAT: 605 ft.
- BPH-790316AF (new), Prescott, Arizona, Southwest FM Broadcasting Co., Inc., Req: 103.9 MHz; Channel No. 280 A, ERP: 3 kw; HAAT: 300 ft.
- BPH-790320AA (KTEZ), Lubbock, Texas, Southwest Record Suppliers, Ltd., Has: 101.1 MHz; Channel No. 268 C, ERP: 59 kw; HAAT: 760 ft. (LIC), Req: 101.1 MHz; Channel No. 268 C, ERP: 100 kw; HAAT: 749 ft.
- BPH-790321AD (KADI), St. Louis, Missouri, Vanguard Broadcasting Corporation, Has: 98.3 MHz; Channel No. 242 C, ERP: 100 kw; HAAT: 200 ft. (LIC), Req: 96.3 MHz; Channel No. 242 C, ERP: 100 kw; HAAT: 519 ft.
- BPH-790322AD (WTCM-FM), Traverse City, Michigan, WTCM Radio, Inc., Has: 103.5 MHz; Channel No. 278 C, ERP: 38 kw; HAAT: 715 ft. (LIC), Req: 103.5 MHz; Channel No. 278 C, ERP: 100 kw; HAAT: 793 ft.
- BPH-790323AD (KNUS), Dallas, Texas, SJR Communications, Inc., Has: 96.7 MHz; Channel No. 254 C, ERP: 100 kw; HAAT: 520 ft. (LIC), Req: 96.7 MHz; Channel No. 254 C, ERP: 100 kw; HAAT: 1683 ft.
- BPH-790326AE (new), Ocean City, New Jersey, Bradley, Hand, and Triplett, Req: 98.3 MHz; Channel No. 252 A, ERP: 3 kw; HAAT: 276 ft.
- BPH-790326AG (new), Crescent City, California, Pyramid Properties, Req: 94.3 MHz; Channel No. 232 A, ERP: 3 kw; HAAT: -275 ft.
- BPH-790328AK (new), Gunnison, Colorado, Mountain Valley Broadcasting Corp., Req: 102.3 MHz; Channel No. 272 A, ERP: 3 kw; HAAT: -465 ft.
- BPH-790329AC (new), Mountain View, Arkansas, Mountain View Broadcasting Corp., Req: 103.3 MHz; Channel No. 277 C, ERP: 100 kw; HAAT: 947 ft.
- BPH-790329AE (new), Monahans, Texas, Monahans Broadcasting Company, Req: 89.9 MHz; Channel No. 260 C, ERP: 100 kw; HAAT: 289 ft.
- BPH-790402AE (new), Cameron, Texas, Cameron-Rockdale Broadcasting Co., Req: 101.7 MHz; Channel No. 269 A, ERP: 3 kw; HAAT: 300 ft.
- BPH-790404AB (new), Eloy, Arizona, Zona Broadcasters, Req: 106.3 MHz; Channel No. 292 A, ERP: 3 kw; HAAT: 300 ft. se
- BPH-790406AA (new), Rexburg, Idaho, Snake River Valley Radio, Inc., req: 98.3 MHz; channel No. 252A, ERP: 3 kw; HAAT: 87 ft.
- BPH-790508AH (new), Lihue, Hawaii, Sudbrink Broadcasting Co. of Hawaii, req: 93.5 MHz; channel No. 228A, ERP: 0.11 kw; HAAT: 1590 ft.
- BMLH-790315AG KEZC, Carmelian Bay, California, Lake Tahoe F.M., Inc., has: 101.7 MHz; channel No. 260A, ERP: 1.25 kw; HAAT: 470 ft. (lic.), (Truckee, California). req: 101.7 MHz; channel No. 269A, ERP: 1.25 kw; HAAT: 470 ft. (Carmelian Bay, California)
- BMPH-781208AJ WIXV, Front Royal, Virginia, Harris Broadcasting Company, has: 95.3 MHz; channel No. 237A, ERP: 3 kw; HAAT: 170 ft. (CP), req: 95.3 MHz; channel No. 237A, ERP: 3 kw; HAAT: 300 ft.
- BMPH-790228AL KLCJ, Bayard, New Mexico, KNFT, Inc, has: 92.7 MHz; channel No. 224A, ERP: 3 kw; HAAT: 135 ft. (CP), req: 92.7 MHz; channel No. 224A, ERP: .182 kw; HAAT: 1003 ft.
- BPED-780802AL (new), Pasadena, Texas Community Radio, Inc., req: 89.3 MHz; channel No. 207A, ERP: .113 kw; HAAT: 95 ft.
- BPED-780830AC WHFH, Flossmoor, Illinois Community High School Dist. No. 233, has: 88.5 MHz; channel No. 203D, TPO: .01 kw. (lic.), req: 88.5 MHz; channel No. 203A, ERP: 1.5 kw; HAAT: 92.25 ft.
- BPED-781208AA (new), Henderson, Kentucky, Murray State University, req: 89.5 MHz; channel No. 206C, ERP: 22 kw; HAAT: 375.2 ft.

BPED-781213AA (new), Milwaukee, Wisconsin, Milwaukee School of Engineering, req: 91.7 MHz; channel No. 219A, ERP: 1 kw; HAAT: 126 ft.

BPED-781228AD (new), East Lansing, Michigan, Michigan State University, req: 88.9 MHz; channel No. 205A, ERP: 2 kw; HAAT: 278 ft.

BPED-790104AG WCBU, Peoria, Illinois, Bradley University, has: 89.9 MHz channel No. 210B, ERP: 11.5 kw; HAAT: 260 ft. (lic.), req: 89.9 MHz; channel No. 210B, ERP: 25.7 kw; HAAT: 653 ft.

BPED-790116AG KHDX, Conway, Arkansas, Hendrix College, has: 89.1 MHz; channel No. 206D, TPO: .01 kw. (lic.), req: 93.1 MHz; channel No. 226DS, ERP: .01 kw; HAAT: 60 ft.

BPED-790126AE KBDG, Turlock, California, Turlock Joint Union High School Dist., has: 90.9 MHz; channel No. 215D, TPO: .01 kw. (lic.), req: 90.9 MHz; channel No. 215A, ERP: .135 kw; HAAT: 76 ft.

BPED-790212AH WKGC-FM, Panama City, Florida, Gulf Coast Community College, has: 90.7 MHz; channel No. 214C, ERP: 9.2 kw; HAAT: 270 ft. (lic.), req: 90.7 MHz; channel No. 214C, ERP: 28.5 kw; HAAT: 380 ft.

BPED-790214AF (WOES), Ovid-Elsie, Michigan, Ovid-Elsie Area Schools, has: 91.3 MHz; channel No. 217D, TPO: .01 kw. (lic.), req: 91.3 MHz; channel No. 217D, ERP: .554 kw; HAAT: 170 ft.

BPED-790223AH (new), Champaign, Illinois, Illinois Bible Institute, Inc., req: 91.7 MHz; channel No. 219B, ERP: 20 kw; HAAT: 450 ft.

BPED-790306AD WSRB, Walpole, Massachusetts, Walpole Public Schools, has: 91.5 MHz; channel No. 218D, TPO: .01 kw. (lic.) req: 89.3 MHz; channel No. 207D, ERP: .028 kw; HAAT: 73 ft.

BPED-790308AB KUSU-FM, Logan, Utah, Utah State Univ. of Agric. & Science, has: 91.5 MHz; channel No. 218C, ERP: 18.5 kw; HAAT: -570 ft. (lic.), req: 91.5 MHz; channel No. 218C, ERP: 15.4 kw; HAAT: 1139 ft.

BPED-790312AC (new), Highland Springs, Virginia, Henrico County Schools, req: 91.1 MHz; channel No. 216A, ERP: 3 kw; HAAT: 103 ft.

BPED-790312AD WBSN-FM, New Orleans, Louisiana, New Orleans Baptist Theological Semn., req: 89.1 MHz; channel No. 206A, ERP: .250 kw; HAAT: 75 ft.

BPED-790312AE WEDM, Indianapolis, Indiana, Metro Sch. Dist. of Warren Township, has: 91.1 MHz; channel No. 216D, TPO: .01 kw. (lic.), req: 9.1 MHz; channel No. 216A, ERP: .100 kw; HAAT: 205 ft.

BPED-790313AL (WXMN), Monticello, Maine, Monticello Community B/cting Corp., has: 89.5 MHz; channel No. 208D, TPO: .01 kw. (lic.), req: 89.5 MHz; channel No. 208A, ERP: 1.13 kw; HAAT: 94 ft.

BPED-790319AB (WUSO), Springfield, Ohio, Bd. of Directors of Wittenberg Univ., has: 89.1 MHz; channel No. 206D, TPO: .01 kw. (lic.), req: 89.1 MHz; channel No. 206D, TPO: .01 kw.

BPED-79032AD (KRPR) Rochester, Minnesota, Rochester Community College,

Has: 89.9 Mhz; channel No. 210D TPO: .01 kw. (lic.), req: 89.9 Mhz; channel No. 210A ERP: 1.01 kw; HAAT: 499 ft.

BPED-790322AF (new), Cave City, Arkansas Cave City Public Schools req: 89.9 MHz; channel No. 210c, ERP: 3.27 kw; HAAT: 354.4 ft.

BPED-790322AH (WBHR) Bellaire, Ohio Bd. of Educ. of the Bellaire Cty Sch has: 88.7 MHz; channel No. 204D, TPO: .01 kw. (lic.), req: 88.7 MHz; channel No. 204A, ERP: .153 kw. HAAT: -308 ft.

BPED-790326AB (new), Terre Haute, Indiana Rose-Hulman Institute of Technology req: 91.7 MHz; channel No. 219A, ERP: .160 kw; HAAT: 79.63 ft.

BPED-790326AD (KMFA) Austin, Texas Capitol Broadcasting Association, Inc., has: 89.5 MHz; channel No. 208C, ERP: 1.3 kw; HAAT: 880 ft. (lic.), req: 89.5 MHz; channel No. 208C, ERP: 6.67 kw; HAAT: 878 ft.

BPED-790402AO (new), Greenville, North Carolina, The East Carolina Univ. Media Board, req: 91.3 MHz; channel No. 217A, ERP: .282 kw; HAAT: 134 ft.

BPED-790417AC (new), Jackson, Missouri, Way, Truth and Life Ministries, req: 89.3 MHz; channel No. 207A, ERP: 2.52 kw; HAAT: 161 ft.

BPED-790510AA (new), Exeter, Pennsylvania Wyoming Area School District Req: 88.1 MHz; channel No. 201A ERP: .110 kw; HAAT: -372 ft.

BPED-790517AE (WUAL-FM), Tuscaloosa, Alabama University of Alabama req: 91.5 MHz; channel No. 218C, ERP: 100 kw; HAAT: 531 ft.

BPED-790518AB (new), Toccoa Falls, Georgia Toccoa Falls College req: 90.9 MHz; channel No. 215C, ERP: 100 kw; HAAT: 333 ft.

BPED-790522AA (new), Tuscaloosa, Alabama University of Alabama, req: 90.7 MHz; channel No. 214A, ERP: .118 kw; HAAT: 142 ft.

BPED-790525AA (WUVT-FM), Blacksburg, Virginia Va., Polytechnic Institute & State Univ., has: 90.7 MHz; channel No. 214A ERP: .770 kw; HAAT: 150 ft. (Lic) req: 90.7 MHz; channel No. 214A ERP: 3 kw; HAAT: 151.5 ft.

BPED-790513AD (new), Hoopa, California, Hoopa Valley Telecommunications Corp., req: 91.3 MHz; channel No. 217A, ERP: .197 kw; HAAT: -1558 ft.

BPED-790226AI (KEMC), Billings, Montana, Eastern Montana College, has: 91.7 MHz; channel No. 219D, TPO: .01 kw. (lic.), has: 91.7 MHz; channel No. 219A, ERP: .7 kw; HAAT: -197 ft. (CP), req: 91.7 MHz; channel No. 219C, ERP: 24.3 kw; HAAT: 323.5 ft.

[FR Doc. 79-19912 Filed 6-27-79; 8:45 am]

BILLING CODE 6712-01-M

FM and TV Translator Applications Ready and Available for Processing

Adopted: June 19, 1979.

Released: June 22, 1979.

By the Chief, Broadcast Facilities Division.

Notice is hereby given pursuant to Section 1.572(c) and 1.573(d) of the

Commission's Rules, that on August 3, 1979, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to Sections 1.227(b)(1) and 1.591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on August 2, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on August 2, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.584(i) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,
Secretary.

VHF TV Translator Applications

BPTTV-790202IF (new), Richfield, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 2, 54-60 MHz, 1 watt, Primary: KAIT-TV, Boise, Idaho.

BPTTV-790202IG (new), Priest Lake Rural Area, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 3, 60-68 MHz, 1.0 watt, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IH (new), Council, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 5, 76-82 MHz, 5 watts, Primary: KAIT-TV, Boise, Idaho.

BPTTV-790202II (new), Jullietta, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 5, 76-82 MHz, 1 watt, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IJ (new), Kooskia & Sites, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 5, 76-82 MHz, 1.0 watt, Primary: KUID-TV Moscow, Idaho.

BPTTV-790202IK (new), Clifton, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 6, 82-88 MHz, 10 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTTV-790202IL (new), May Rural Area, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 6, 82-88 MHz, 1 watt, Primary: KBGL-TV, Pocatello, Idaho.

BPTTV-790202IM (new), Fernwood & Santa, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 8, 180-186 MHz, 1.0 watt, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IN (new), LaPwai & Spalding, Idaho, State Board of Education and Board

of Regents of the University of Idaho, Req: Channel 10, 192-198 MHz, 1 watt, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IO (new), Peck, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 11, 198-204 MHz, 1.0 watt, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IP (new), Cambridge & Midvale, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 11, 198-204 MHz, 1 watt, Primary: KAID-TV, Boise, Idaho.

BPTTV-790202IQ (new), Coeur D'Alene & Post Falls, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 12, 204-210 MHz, 10 watts, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IR (new), Challis & Ellis Rural Area, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 12, 204-210 MHz, 10 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTTV-790202IS (new), Harrison & Worley, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 13, 210-216 MHz, 10 watts, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IT (new), Driggs, Tetonia & Victor, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 13, 210-216 MHz, 10 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTTV-790202IU (new), Glenns Ferry, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 13, 210-216 MHz, 1 watt, Primary: KAID-TV, Boise, Idaho.

BPTTV-790202IV (new), Tensed & De Smet, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 13, 210-216 MHz, 1.0 watt, Primary: KUID-TV, Moscow, Idaho.

BPTTV-790202IW (new), Irwin & Swan Valley, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 13, 210-216 MHz, 1 watt, Primary: KBGL-TV, Pocatello, Idaho.

UHF TV Translator Applications

BPTT-790202JA (new), Malad, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 62, 758-764 MHz, 100 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTT-790202JB (new), Salmon, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 62, 758-764 MHz, 100 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTT-790202JC (new), Priest River & Sandpoint, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 64, 770-776 MHz, 100 watts, Primary: KUID-TV, Moscow, Idaho.

BPTT-790202JD (new), Kellogg, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 67, 788-794 MHz, 10 watts, Primary: KUID-TV, Moscow, Idaho.

BPTT-790202JE (new), Albion, Burley, Heyburn, Oakley, Paul & Rupert, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req:

Channel 68, 794-800 MHz, 100 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTT-790202JF (new), Crouch & Garden Valley, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 69, 800-806 MHz, 100 watts, Primary: KAID-TV, Boise, Idaho.

BPTT-790202JG (new), Georgetown, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 69, 800-806 MHz, 1 watt, Primary: KBGL-TV, Pocatello, Idaho.

BPTT-790202JH (new), St. Maries & Rose Lake, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 69, 800-806 MHz, 100 watts, Primary: KUID-TV, Moscow, Idaho.

BPTT-790202JX (new), Montpelier, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 57, 728-734 MHz, 100 watts, Primary: KBGL-TV, Pocatello, Idaho.

BPTT-790202JY (new), Lava Hot Springs, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 59, 740-746 MHz, 1 watt, Primary: KBGL-TV, Pocatello, Idaho.

BPTT-790202JZ (new), Bonners Ferry, Idaho, State Board of Education and Board of Regents of the University of Idaho, Req: Channel 59, 740-746 MHz, 100 watts, Primary: KUID-TV, Moscow, Idaho.

FM Translator Applications

BFPT-781017II (new), Homer-Seldovia & Kachemak City, Alaska, Alaska Village Missions, Inc., Req: Channel 233, 104.9 MHz, 10 watts, Primary: KHVN-FM, Anchorage, Alaska.

BPFTB-790223IA (new), Dublin, Calif., Starr KABL, Inc., Req: Channel 251, 98.1 MHz, 10 watts, Primary: KABL-FM, San Francisco, California.

UHF TV Translator Applications

BPTT-790123IK (new), Seattle, Wash., Trinity Broadcasting of Seattle, Inc., Req: Channel 22, 518-524 MHz, 100 watts, Primary: KTBN-TV, Fontana, California.

BPTT-790123IL (new), Richmond, Tex., Trinity Broadcasting of Texas, Inc., Req: Channel 45, 656-662 MHz, 100 watts, Primary: KTBN-TV, Fontana, California.

VHF TV Translator Applications

BPTTV-790307IJ (K02DP), Grants Pass, Oreg., Sierra Cascade Communications, Inc., Req: Add Merlin, Oregon to present principal community.

BPTTV-790413IA (K12GE), Williams, Oreg., Sierra Cascade Communications, Inc., Req: Change frequency to Channel 4, 66-72 MHz, increase output power to 5 watts, specify primary TV Station as KTVL.

BPTTV-790413IB (K12GH), Butte Falls, Oreg., Sierra Cascade Communications, Inc., Req: Change frequency to Channel 4, 66-72 MHz, specify primary TV Station as KTVL.

BPTTV-790413IC (K12GQ), Klamath Falls, Pelican City & Altamont, Oreg., Sierra Cascade Communications, Inc., Req: Change frequency to Channel 7, 174-180

MHz, increase output power to 10 watts and specify primary TV Station as KTVL.

[FR Doc. 79-19914 Filed 6-27-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-56]

Bayamon Federal Savings & Loan Association of Puerto Rico, Bayamon, P.R.; Approval of Conversion Application; Final Action

Dated: June 25, 1979.

Notice is hereby given that on June 21, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-358 approved the application of Bayamon Federal Savings and Loan Association of Puerto Rico, Bayamon, Puerto Rico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-20063 Filed 6-27-79; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-58]

Beverly Hills Federal Savings & Loan Association, Beverly Hills, Calif.; Approval of Conversion Application; Final Action

Dated: June 25, 1979.

Notice is hereby given that on June 21, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-359 approved the application of Beverly Hills Federal Savings and Loan Association, Beverly Hills, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-20084 Filed 6-27-79; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-57]

First Federal Savings & Loan Association of Roanoke, Roanoke, Va.; Approval of Conversion Application; Final Action

Dated: June 25, 1979.

Notice is hereby given that on June 21, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-360 approved the application of First Federal Savings and Loan Association of Roanoke, Roanoke, Virginia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 250 Peachtree Center, N.W. Atlanta, Georgia.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-20085 Filed 6-27-79; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-59]

Land of Lincoln Federal Savings & Loan Association, Berwyn, Ill.; Approval of Conversion Application; (Final Action)

Dated: June 25, 1979.

Notice is hereby given that on June 21, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-361 approved the application of Land of Lincoln Federal Savings and Loan Association, Berwyn, Illinois, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Chicago, Ill., 111 East Wacker Drive, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-20086 Filed 6-27-79; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL HOME LOAN BANK BOARD

Surety Savings Association, Houston, Tex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Surety Savings Association, Houston, Texas, effective upon compliance with the provisions of Federal Home Loan Bank Board Resolution No. 79-320, dated June 14, 1979. The appointment was effected on June 15, 1979.

Dated: June 25, 1979.

J. J. Finn,
Secretary.

[FR Doc. 79-20082 Filed 6-27-79; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Banco de Santander International, Inc. et al.; Corporations To Do Business Under Section 25(a) of the Federal Reserve Act

Applications have been submitted for the Board's approval of the organization of corporations to do business under section 25(a) of the Federal Reserve Act ("Edge Corporations"), to be known as: Banco de Santander International, Inc., Miami, Florida; Banque de Paris et des Pays-Bas International (Houston) Co., Houston, Texas; Chemical Bank International of Miami, Miami, Florida; European American Bank International, Los Angeles, California; and Pittsburgh International Bank, New York, New York. Banco de Santander International, Inc. would operate as a subsidiary of Banco de Santander, S.A., Santander, Spain. Banque de Paris et des Pays-Bas International (Houston) Co. would operate as a subsidiary of Banque de Paris et des Pays-Bas, Paris, France. Chemical Bank International of Miami would operate as a subsidiary of Chemical Bank, New York, New York. European American Bank International would operate as a subsidiary of European American Bank & Trust Company, New York, New York. Pittsburgh International Bank would

operate as a subsidiary of Pittsburgh National Bank, Pittsburgh, Pennsylvania. The factors that are considered in acting on the applications are set forth in section 211.4(a) of the Board's Regulation K (12 CFR § 211.4(a)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York (with the exception of the application to establish Pittsburgh International Bank, which may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland). Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 20, 1979. Any comment that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 20, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-20017 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

Blooming Prairie Bancshares, Inc.; Formation of Bank Holding Company

Blooming Prairie Bancshares, Inc., Blooming Prairie, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 89 percent or more of the voting shares of First National Bank of Blooming Prairie, Blooming Prairie, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 15, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20019 Filed 6-27-79; 8:45 am]

BILLING CODE 6210-01-M

First Pennsylvania Corp.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 18, 1979.

A. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

FIRST PENNSYLVANIA CORPORATION, Philadelphia, Pennsylvania (commercial finance company; California, Texas) to engage, through its subsidiaries, Continental finance Corporation, Denver, Colorado, and Alliance finance Company of California, Los Angeles, California, in making or acquiring for its own account or for the account of others, loans and

other extensions of credit, such as would be made by a commercial finance company, and servicing loans and other extensions of credit. These activities would be conducted by Continental Finance Corporation from an office in Dallas, Texas, serving the greater Dallas area, and by Alliance Finance Company of California, from an office in Orange, California, serving the greater Los Angeles area.

B. *Other Federal Reserve Banks:*
None.

Board of Governors of the Federal Reserve System, June 21, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20017 Filed 6-27-79; 8:45 am]

BILLING CODE 6210-01-M

Frankfort Bancorporation, Inc.; Formation of Bank Holding Company

Frankfort Bancorporation, Inc., West Frankfort, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80.9 percent or more of the voting shares of the Bank of West Frankfort, West Frankfort, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 21, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20013 Filed 6-27-79; 8:45 am]

BILLING CODE 6210-01-M

Kilgore Bancshares, Inc.; Formation of Bank Holding Company

Kilgore Bancshares, Inc., Kilgore, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding

company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of Farmers State Bank, Kilgore, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20014 Filed 6-27-79; 8:45 am]

BILLING CODE 6210-01-M

Pelican Bancshares, Inc.; Formation of Bank Holding Company

Pelican Bancshares, Inc., Pelican Rapids, Minnesota, has applied for the Board's approval under § 1842(a)(1) to become a bank holding company by acquiring 86 percent of the voting shares of Pelican Valley State Bank, Pelican Rapids, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20018 Filed 6-27-79; 8:45 am]

BILLING CODE 6210-01-M

Old Stone Corp.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 20, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Florida): to engage through its indirect subsidiary, DAC Corporation, in the origination, sale and servicing of second mortgage loans; making available to borrowers credit life and accident and health insurance in connection with extensions of credit by DAC. These activities would be conducted from two new office locations in West Palm Beach and Bradenton, Florida. The service area for the Bradenton, Florida office shall be the Cities of Bradenton, Sarasota and Venice, Florida and the are 100 miles to the east of these communities. The

service area for the West Palm Beach office will be the Cities of West Palm Beach, Lake Worth, Boynton Beach, Delray Beach and Belle Glade, Florida.

B. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, June 21, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20015 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

Regional Bancshares, Inc.; Formation of Bank Holding Company

Regional Bancshares, Inc., Alton, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 86 per cent or more of the voting shares of The Bank of Alton, Alton, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 19, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20020 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

Mountain Holding, Inc.; Formation of Bank Holding Company

Mountain Holding Inc., Aurora, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 97.6 percent or more of the voting shares of Jefferson Bank East, Aurora, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas

City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of that fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 18, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-19870 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

State Center Financial, Inc.; Formation of Bank Holding Company

State Center Financial, Inc., State Center, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 83.2 percent of the voting shares of Central State Bank, State Center, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 19, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20127 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

Consumer Advisory Council; Solicitation of Nominations for Members of Consumer Advisory Council

The Board of Governors is seeking from the public nominations of qualified individuals for appointment to its

Consumer Advisory Council. The Consumer Advisory Council was established by Congress in 1976, at the suggestion of the Board, to advise the Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Board, therefore, is especially interested in candidates who are familiar with issues in the area of consumer credit. The Council should represent the interests of both creditors and consumers.

Generally, the Council meets four times a year for approximately a day and a half. Council members who are not federal employees will be paid \$100 for each day spent attending and traveling to and from meetings. In addition, such members may be reimbursed for travel expenses associated with meetings. Listed below are the names, affiliations, and terms of office of current Council members:

Chairman

William D. Warren, Dean, U.C.L.A. School of Law, Los Angeles, California, December 31, 1980.

Vice Chairman

Marcia A. Hakala, Assistant to the Dean, School of Fine Arts, University of Nebraska at Omaha, Omaha, Nebraska, December 31, 1980.

Roland E. Brandel, Partner, Morrison & Foerster, San Francisco, California, December 31, 1980.

James L. Brown, Director, Center for Consumer Affairs, University of Wisconsin Extension, Milwaukee, Wisconsin, December 31, 1981.

Mark E. Budnitz, Associate Professor, Emory University School of Law, Atlanta, Georgia, December 31, 1981.

John G. Bull, President and Chief, Executive Officer, National Bancard Corporation, Ft. Lauderdale, Florida, December 31, 1979.

Robert V. Bullock, Assistant Deputy Attorney General, Consumer Protection, Commonwealth of Kentucky, Frankfort, Kentucky, December 31, 1980.

Carl Felsenfeld, Vice President, Citibank, N.A., New York, New York, December 31, 1979.

Jean A. Fox, Member of the Board, Pennsylvania Citizens Consumer Council, Pittsburgh, Pennsylvania, December 31, 1979.

Richard H. Holton, Professor of Business Administration, University of California, Berkeley, California, December 31, 1979.

Edna DeCoursey Johnson, Executive Director, Northwest Baltimore Corporation, Baltimore, Maryland, December 31, 1979.

Richard F. Kerr, Operating Vice President, Federated Department Stores, Cincinnati, Ohio, December 31, 1981.

Robert J. Klein, Senior Editor, Money Magazine, New York, New York, December 31, 1980.

Harvey M. Kuhnley, President and Chief Executive Officer, Twin City Federal Savings & Loan Association, Minneapolis, Minnesota, December 31, 1981.

Percy W. Loy, President, Kubla Kahn Food Company, Portland, Oregon, December 31, 1979.

R. C. Morgan, President, Government Employees Credit Union of El Paso, El Paso, Texas, December 31, 1980.

Florence M. Rice, President, Harlem Consumer Education Council, New York, New York, December 31, 1981.

Ralph J. Rohner, Professor, Catholic University Law School, Washington, D.C., December 31, 1981.

Raymond J. Saulnier, Professor (Emeritus) of Economics, Barnard College, Columbia University, New York, New York, December 31, 1979.

Henry B. Schechter, Director of Urban Affairs, AFL-CIO, Washington, D.C., December 31, 1981.

E. G. Schuhart, Farmer and Rancher, Dalhart, Texas, December 31, 1980.

Blair C. Shick, Senior Consultant, Arthur D. Little, Inc., Cambridge, Massachusetts, December 31, 1979.

Thomas R. Swan, Vice President, Secretary, and Clerk, Maine Savings Bank, Portland, Maine, December 31, 1979.

Anne Gary Taylor, Retired President, Sweet Briar College, Alexandria, Virginia, December 31, 1979.

Richard A. Van Winkle, President, Lockhart Finance Company, Salt Lake City, Utah, December 31, 1981.

Richard Wagner, President, Wagner Ford Sales, Inc., Simsbury, Connecticut, December 31, 1980.

Mary W. Walker, President, National Bank of Walton County, Monroe, Georgia, December 31, 1981.

Chairman Emeritus

Leonor K. Sullivan, St. Louis, Missouri, December 31, 1980.

Suggestions should be submitted in writing to Ms. Anne Geary, Assistant Director, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than August 6, 1979. Nominations should include the name, address and phone number of the nominee, past and present positions held, and special knowledge, interests, or experience relating to consumer matters. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, June 19, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-20022 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

First Deerfield Corp.; Formation of Bank Holding Company

First Deerfield Corporation, Chicago, Illinois, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of the First National Bank of Deerfield, Deerfield, Illinois. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 18, 1969.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-20021 Filed 6-27-79; 8:45 am]

BILLING CODE 6210-01-M

Wells Fargo & Co.; Proposed Commencement of Credit Life Underwriting (as Reinsurer)

Wells Fargo and Company, San Francisco, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the credit life underwriting (as reinsurer) activities of its subsidiary, Central Western Insurance Company, to include credit life insurance directly related to extensions of credit in the States of Colorado and Oklahoma by Wells Fargo's lending subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested person may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 12, 1979.

Board of Governors of the Federal Reserve System, June 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-20023 Filed 6-27-79; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-487]

Federal Property Management Regulations

Subject: Delegation of authority.

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Acting Administrator of General Services, the interests of the executive agencies of the Federal Government in a telecommunications proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40) U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Missouri Public Service Commission involving the pending application of the Southwestern Bell Telephone Company for an increase in its intrastate telecommunications service.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 15, 1979.

Clarence A. Lee,
Acting Administrator of General Services.

[FR Doc. 79-19956 Filed 6-27-79; 8:45 am]
BILLING CODE 6820-38-M

[Temporary Regulation F-488]

Federal Property Management Regulations

Subject: Delegation of authority.

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Acting Administrator of General Services, the interests of the executive agencies of the Federal Government in a telecommunications proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40) U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Louisiana Public Service Commission involving the pending application of the South Central Bell Telephone Company for an increase in its intrastate telecommunications service.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 15, 1979.

Clarence A. Lee,
Acting Administrator of General Services.

[FR Doc. 79-19955 Filed 6-27-79; 8:45 am]
BILLING CODE 6820-38-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Suspension of Maximum Allowable Cost Limits

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Suspension of Maximum Allowable Cost Limits on Amoxicillin 125mg/5cc oral suspensions.

SUMMARY: The Pharmaceutical Reimbursement Board hereby suspends the Maximum Allowable Cost (MAC) limits on amoxicillin 125mg/5cc and 250mg/5cc oral suspensions. These MAC limits were originally announced on May 14, 1979 (44 FR 28104), and were to have taken effect on June 28, 1979. In establishing these MAC limits, the Board determined the unit price based on the 150ml package size, which is the most frequently purchased package size of the drug. However, it has been brought to our attention that pharmacists cannot readily reconstitute 150ml package sizes into smaller amounts (e.g. 80 or 100ml). Thus, it would have been difficult for pharmacists to acquire the 80 and 100ml package sizes at or below the MAC level.

Therefore, the Board will reinstitute procedures to establish MACs on these two strengths of amoxicillin oral suspension. The MAC limits on the 250 and 500 mg amoxicillin capsules, previously announced on May 14, will go into effect on June 28, as scheduled.

DATE: The effective date of this suspension is June 28, 1979.

FOR FURTHER INFORMATION CONTACT: Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-472-3820.

Dated: June 21, 1979.

Charles Spalding,
Acting Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 79-19963 Filed 6-27-79; 8:45 am]
BILLING CODE 4110-35-M

Health Resources Administration

Graduate Medical Education National Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National

Advisory body scheduled to meet during the month of July 1979:

Name: Graduate Medical Education National Advisory Committee:

Date and Time: July 19, 1979, 1:00 p.m.; July 20, 1979, 8:30 a.m.

Place: Room 727A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. Open for entire meeting.

Purpose: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; and (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

Agenda: A report on the modeling process; resolution of supply projection issue; review of responses to date to Interim Report; timetable/workplan; and various subgroups looking at issues.

Due to limited seating, attendance by the public will be provided on a first-come, first-serve basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact David McNutt, M.D., Office of Graduate Medical Education, Room 2-62, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6570.

Agenda items are subject to change as priorities dictate.

Date: June 21, 1979.

James A. Walsh,

Associate Administrator for Operations and Management.

[FR Doc. 79-19967 Filed 6-27-79; 8:45 am]

BILLING CODE 4110-83-M

Office of Education

Career Education State Allotment Program; Closing Date for Transmittal of State Plans for Career Education

The Career Education Incentive Act of 1977, Pub. L. 95-207 (20 U.S.C. 2601 et seq.), provides for the allotment of Federal funds to States to assist them in providing State leadership for career education and in developing comprehensive career education programs in local educational agencies. The Act further provides that each State desiring to receive funds appropriated for Fiscal Years 1980 through 1983 shall submit to the U.S. Commissioner of Education a State plan for career

education under Section 7 of the Act (20 U.S.C. 2606) and meet the compliance requirements specified in Section 9 of the Act (20 U.S.C. 2608).

Closing Date for Transmittal of State Plans for Career Education: The closing date for transmittal of a State plan is July 1, 1979, as specified in Section 7 of the Act (20 U.S.C. 2606). The State plan for career education must be addressed to the U.S. Commissioner of Education, U.S. Office of Education, Washington, D.C. 20202, and the transmittal letter must be signed by the Chief State School Officer. State plans may be accepted only if they are mailed on or before the closing date.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. States should check with their local post office before relying on this method. States are encouraged to use registered or at least first class mail.

Available Funds: It is not known at this time the amount of funds that will be appropriated for the Career Education State Allotment Program for Fiscal Years 1980 through 1983. Such funds as are appropriated will be allotted on the basis of the population formula set forth in Section 5 of the Act (20 U.S.C. 2604). Funds reserved for States not submitting State plans for career education by the closing date shall be reallocated under Section 5(b)(1) of the Act, by ratably increasing the allocations of each of the States which have submitted State plans.

Applicable Regulations: The regulations applicable to this program are:

(a) 45 CFR Parts 100, 100a-100c, Education Division General Administrative Regulations (EDGAR), published as a notice of proposed rulemaking in the Federal Register on May 4, 1979.

These provisions relate to administrative, fiscal, property management, and other matters; and (20 U.S.C. 1221 et seq.)

(b) 45 CFR Part 161, governing the Career Education State Allotment Program, published as a notice of proposed rulemaking in the Federal Register on December 18, 1978.

(20 U.S.C. 2601-2614, 2502)

States will be given an opportunity to amend their State plans if, after consideration of public comments, there are major changes made in the final

regulations for career education and EDGAR.

Further Information: For further information contact Dr. Sidney C. High, Jr., Office of Career Education, U.S. Office of Education (Room 3108-A, Regional Office Building 3), Washington, D.C. 20202, Telephone: (202) 245-2331.

(20 U.S.C. 2601-2614, 2502)

(Catalog of Federal Domestic Assistance Number 13.596; Career Education State Allotment Program)

Dated: June 16, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

[FR Doc. 79-20129 Filed 6-27-79; 8:45 am]

BILLING CODE 4110-02-M

Statement of Organization, Functions, and Delegations of Authority

Part EE.10 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is hereby amended to reflect the recentralization of authority of the compliance function of the Bureau of Student Financial Assistance as mandated by the Secretary's memorandum which requires that staff who conduct audits and investigations in the field be directly responsible to Headquarters. In addition, minor modifications have been made to the functional statements for the divisions of the Regional offices of Student Financial Assistance.

The specific changes are as follows:

(1) The title and statement for the Division of Compliance, published at 42 FR 45378 (September 9, 1977), are deleted in their entirety and are replaced by the following:

Division of Compliance (EEMU). Conducts, on a nationwide basis, compliance investigations of institutions and individuals participating in the seven student financial assistance programs administered by the Bureau of Student Financial Assistance (BSFA), who are suspected of fraud and program abuse; maintains liaison with Office of the Inspector General, HEW, and the U.S. Department of Justice; and provides support for potential criminal and civil court proceedings. Investigators-In-Charge in each region report directly to the Division of Compliance.

(2) The statements for the Regional Offices of Student Financial Assistance, published at 42 FR 45378 (September 9, 1977) and at 42 FR 60961 (November 30, 1977) are deleted in their entirety and are replaced by the following:

Office of Student Financial Assistance (EDIS—EEDXS)

Conducts the field activities of the Bureau of Student Financial Assistance in accordance with direction and supervision from the Deputy Commissioner for Student Financial Assistance. Regional student assistance activities include, but are not limited to: Institutional program reviews; examination of loans, claims and collections; review of institutional funding requests; operation of automated systems; and dissemination of information to institutions, students and the general public.

Although all regional offices carry out the functions stated above, regional organizations may vary according to the size of the workload. The following Divisions are therefore deemed to be model organizations. Amalgamations of these in any region could differ from the model.

Division of Certification and Program Review

Conducts program reviews of postsecondary educational institutions and lender agencies and institutions participating in student assistance programs, to ascertain compliance with program regulations and effectiveness of program administration; recommends certification of institutions based on conformance to established fiscal and program standards; conducts workshops on annual applications for grant and loan programs; recommends reallocation of student financial assistance funds to institutions; recommends limitation, suspension or termination of institutions from the program or programs based on review findings.

Division of Claims and Collections

Establishes controls over and reviews claims filed by lending institutions for payment of defaulted loans under the Guaranteed Student Loan Program; approves insured claims for payments; contacts borrowers who have defaulted on student loan payments and attempts collections; provides preclaims assistance as requested by lending institutions; and monitors contracts with private organizations for loan collections. Provides data management support for automated systems; maintains control on claims and collections files and, as necessary, provides mail receipt and other information support to the Office.

Division of Training and Dissemination

Determines need for, and provides for training of institutional student financial aid officers and regional staff; prints,

warehouses, and disseminates program information to institutions, students, and the general public, on student assistance programs. Arranges for Federal participation in workshops and conferences for institutional financial aid officers; attends professional organization meetings to disseminate technical information on student assistance programs; participates in other Public meetings to provide general program information to students, parents, and other interested parties; prepares responses to inquiries from institutions, the general public, and members of Congress, on student assistance programs.

Dated June 20, 1979.

Frederick M. Bohlen,
Assistant Secretary for Management and Budget.

[FR Doc. 79-20097 Filed 6-27-79; 8:45 am]
BILLING CODE 4110-02-M

Model Adoption Legislation and Procedures Advisory Panel; Meeting

The Model Adoption Legislation and Procedures Advisory Panel was established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95-266, Title II, Section 202) to advise and assist the Secretary of HEW in the review of current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children. The Panel will propose to the Secretary model adoption legislation and procedures not later than twelve months after its appointment.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 95-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Panel will hold a meeting on August 6, 7, and 8, 1979 from 9:00 a.m. to 5:00 p.m. in Room 727A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

At this meeting the Panel will consider and approve an agenda for the three day meeting. The Panel will discuss the fifth draft of the model adoption legislation and the third draft of the model adoption procedures. The Panel will meet in plenary session throughout the three-day meeting.

Further information on the Panel may be obtained from Mrs. Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013,

telephone (202) 755-7730. Model Adoption Legislation and Procedures Advisory Panel meetings are open for public observation.

Arnold Sampson,
HDS Committee Management Officer.

June 19, 1979.
[FR Doc. 79-19368 Filed 6-27-79; 6:45 am]
BILLING CODE 4110-92-M

Model Adoption Legislation and Procedures Advisory Panel; Meeting

The Model Adoption Legislation and Procedures Advisory Panel was established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95-266, Title II, Section 202) to advise and assist the Secretary of HEW in the review of current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children. The Panel will propose to the Secretary model adoption legislation and procedures not later than twelve months after its appointment.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 95-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Panel will hold a meeting September 26, 27 and 28, 1979 from 9:00 a.m. to 5:00 p.m. in room 727A, Hubert H. Humphrey Building, 200 Independence Ave. S.W., Washington, DC.

At this meeting the Panel will consider and approve an agenda for the three day meeting. The Panel will discuss the final draft of the model adoption legislation and the final draft of the model adoption procedures. The Panel will meet in plenary session throughout the three day meeting.

Further information on the Panel may be obtained from Mrs. Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, Children's Bureau, P.O. Box 1182, Washington, DC 20013, telephone (202) 755-7730. Model Adoption Legislation and Procedures Advisory Panel meetings are open for public observation.

Arnold Sampson,
HDS Committee Management Officer.

June 19, 1979.
[FR Doc. 79-19369 Filed 6-27-79; 6:45 am]
BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14903-D]

Alaska Native Claims Selection

The State of Alaska filed general purposes selection applications F-024122, as amended, on September 23, 1959, F-024576 and F-028717, both as amended, on December 11, 1959, and November 27, 1961, respectively, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). These applications selected lands near the Native village of Nenana.

Section 11 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (1976)) (ANCSA), withdrew the lands surrounding the village of Nenana for Native selection.

On December 11, 1974, Toghothle Corporation, for the Native village of Nenana, filed selection application F-14903-D under the provisions of Sec. 12 of the ANCSA for the surface estate of certain lands in the vicinity of Nenana.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected, have been properly selected under village selection application F-14903-D. Accordingly, State selection applications F-024122, F-024576 and F-028717 are rejected as to the following described lands:

Fairbanks Meridian, Alaska

Surveyed Lands

T. 4 S., R. 7 W.

Sec. 13, lots 6, 7, 8 and 9, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;Sec. 14, lots 8 and 12, S $\frac{1}{2}$ S $\frac{1}{2}$;Sec. 15, lots 1, 2 and 3, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;Sec. 17, lots 2, 3, 4, 5, 7, 8, 9 and 10, N $\frac{1}{2}$ SW $\frac{1}{4}$;Sec. 18, lots 7, 8 and 12, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 19, lot 1;

Sec. 20, lot 1.

Containing 1,775.84 acres.

Surveyed Lands Requiring Additional Survey

T. 4 S., R. 7 W.

Those portions of Tract A more particularly described as (protracted):

Sec. 20, that portion south of the left limit

of the Tanana River excluding U.S.

Survey 4202 and Pogies Slough;

Sec. 21, that portion south of the left limit

of the Tanana River excluding U.S.

Survey 4198 and Pogies Slough;

Secs. 22, 23 and 24, all.

Containing approximately 2,903 acres.

Aggregating approximately 4,679 acres.

The total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Toghothle Corporation is approximately 23,627 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

As to the lands described above, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the aforementioned described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 4,679 acres, is considered proper for acquisition by Toghothle Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)

(1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions if any, of the lands hereinabove granted, as are prescribed in said section.

Toghothle Corporation is entitled to conveyance of 138,240 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 23,707 acres. The remaining entitlement of approximately 114,533 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Toghothle Corporation, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

Tanana River and its interconnecting sloughs;
Pogies Slough.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until July 30, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Toghotthele Corporation, Nenana Village Corporation, Box 322, Nenana, Alaska 99760.

Doyon, Limited, First And Hall Streets, Fairbanks, Alaska 99701.

Ann Johnson,

Acting Chief, Branch of Adjudication.

[FR Doc. 79-20024 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6647-A and AA-6647-B]

Alaska Native Claims Selections

On October 3, 1974, and December 13, 1974, The Akutan Corporation, for the Native village of Akutan, filed selection applications AA-6647-A and AA-6647-B, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Akutan area, including lands within the Aleutian Islands National Wildlife Refuge (Executive Order (EO) 1733).

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

This decision approves approximately 10,792 acres of national wildlife refuge lands for conveyance to The Akutan Corporation, for a cumulative total of approximately 10,792 acres. This does not exceed the 69,120 acres permitted under Sec. 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 89,773 acres, is considered proper for acquisition by The Akutan Corporation and is hereby

approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Lands Outside the Aleutian Islands National Wildlife Refuge (EO 1733)

U.S. Survey No. 2014 Lots 2 and 3, situated on the Northwesterly shore of Akutan Harbor, at Akutan, Akutan Island.

Containing 0.94 acre.

Seward Meridian, Alaska (Unsurveyed)

Portions of land on Akun and Akutan Islands, excluding any offshore islands, rocks and pinnacles within the following protracted description:

T. 68 S., R. 110 W.

Secs. 13, 25 and 25 (fractional), all;
Secs. 35 and 36 (fractional), all.

Containing approximately 2,160 acres.

T. 69 S., R. 110 W.

Secs. 4 to 7 (fractional), inclusive, all;
Sec. 8, all;

Secs. 9 to 12 (fractional), inclusive, all;

Sec. 13, all;

Sec. 14 (fractional), all;

Secs. 15 to 24, inclusive, all;

Secs. 25 and 26 (fractional), all;

Secs. 27, 28 and 29, all;

Secs. 30 and 31 (fractional), all;

Secs. 32 and 33, all;

Secs. 34 and 35 (fractional), all.

Containing approximately 16,419 acres.

T. 70 S., R. 110 W.

Secs. 3, 4, and 5 (fractional), all;

Secs. 6 and 7, all;

Secs. 8 and 9 (fractional), all;

Secs. 16, 17 and 18 (fractional), all;

Sec. 20 (fractional), all.

Containing approximately 4,220 acres.

T. 69 S., R. 111 W.

Sec. 1 (fractional), all;

Sec. 2 (fractional), excluding U.S. Survey

767;

Secs. 3 and 4 (fractional), all;

Secs. 12, 13 and 14 (fractional), all;

Secs. 23, 24 and 25 (fractional), all;

Secs. 31 and 36 (fractional), all;

Containing approximately 2,755 acres.

T. 70 S., R. 111 W.

Secs. 1 and 2 (fractional), all;

Sec. 6 (fractional), excluding ANCSA Sec.

3(e) application AA-16481 (Executive

Order 3406);

Sec. 9 (fractional), all;

Sec. 10 (fractional) excluding ANCSA Sec.

3(e) application AA-12850;

Secs. 11, 12 and 13 (fractional), all;

Secs. 15 to 18 (fractional), inclusive, all;

Secs. 19 and 22, all;

Secs. 21 and 22 (fractional), all;

Secs. 28 to 31 (fractional), inclusive, all.

Containing approximately 6,512 acres.

T. 69 S., R. 112 W.

Secs. 7 and 8 (fractional), all;

Secs. 17, 18 and 19 (fractional), all;

Secs. 22 and 23 (fractional), all;

Secs. 26 to 30 (fractional), inclusive, all;

Sec. 31, all;

Secs. 32 and 33 (fractional), all;

Sec. 34, all;

Secs. 35 and 36 (fractional), all.

Containing approximately 5,630 acres.

T. 70 S., R. 112 W.

Sec. 1 (fractional), all;

Secs. 2 to 8, inclusive, all;

Sec. 9 (fractional), excluding U.S. Survey 766;

Sec. 10 (fractional), excluding U.S. Survey 1143 and U.S. Survey 1144;

Sec. 11 (fractional), excluding U.S. Survey 1144, U.S. Survey 1145, U.S. Survey 780 and U.S. Survey 2014;

Sec. 12 (fractional), excluding U.S. Survey 2014;

Secs. 13 and 14 (fractional), all;

Secs. 15 to 27, inclusive, all;

Secs. 28 and 29 (fractional), all;

Secs. 30 and 31, all;

Secs. 32 to 36 (fractional), inclusive, all.

Containing approximately 19,570 acres.

T. 71 S., R. 112 W.

Sec. 5 (fractional), all;

Sec. 6, all;

Secs. 7, 8 and 18 (fractional), all.

Containing approximately 1,730 acres.

T. 69 S., R. 113 W.

Secs. 24 and 25, all.

Containing approximately 1,280 acres.

T. 70 S., R. 113 W.

Secs. 25 to 28, inclusive, all;

Secs. 30, 31 and 32, all;

Secs. 33, 34 and 35 (fractional), all;

Sec. 36, all.

Containing approximately 6,800 acres.

T. 71 S., R. 113 W.

Secs. 1 to 7 (fractional), inclusive, all;

Secs. 12 and 13 (fractional), all.

Containing approximately 1,859 acres.

T. 69 S., R. 114 W.

Secs. 23 and 24 (fractional), all;

Sec. 25, all;

Secs. 26 and 35 (fractional), all;

Sec. 36, all.

Containing approximately 2,275 acres.

T. 70 S., R. 114 W.

Sec. 1, all;

Secs. 2, 3 and 10 (fractional), all;

Secs. 11 to 14, inclusive, all;

Secs. 15 and 16 (fractional), all;

Secs. 22 and 23 (fractional), all;

Sec. 24, all;

Secs. 25, 26 and 36 (fractional), all.

Containing approximately 7,300 acres.

T. 71 S., R. 114 W.

Secs. 1 and 12 (fractional), all.

Containing approximately 470 acres.

Aggregating approximately 76,981 acres on Akun and Akutan Islands and outside the Aleutian Islands National Wildlife Refuge (EO 1733)

Land Within the Aleutian Islands National Wildlife Refuge (EO 1733)

Seward Meridian, Alaska (Unsurveyed)

Lands consisting of islands, rocks and pinnacles within the following protracted description.

T. 68 S., R. 110 W.

Sec. 24 (fractional), excluding Akun Island.

Containing approximately 15 acres.

T. 70 S., R. 110 W.

Sec. 2 (fractional), all;

Secs. 3, 4, 5 and 9 (fractional), excluding

Akun Island;

Secs. 10 and 11 (fractional), all;

Sec. 20 (fractional), excluding Akun Island;

Secs. 34, 35 and 36 (fractional), all.

Containing approximately 645 acres.

- T. 71 S., R. 110 W.
Secs. 3, 4 and 8 (fractional), all;
Sec. 9, all;
Secs. 10 and 11 (fractional), all;
Secs. 14 to 17 (fractional), inclusive, all.
Containing approximately 3,415 acres.
- T. 69 S., R. 111 W.
Sec. 4 (fractional), excluding Akun Island;
Secs. 14 and 36 (fractional), excluding Akun Island.
Containing approximately 20 acres.
- T. 70 S., R. 111 W.
Secs. 1 and 2 (fractional), excluding Akun Island;
Sec. 3 (fractional), all;
Secs. 6 and 10 (fractional), excluding Akun Island;
Sec. 13 (fractional), excluding Akutan Island;
Sec. 28 (fractional), excluding Akutan Island.
Containing approximately 84 acres.
- T. 69 S., R. 112 W.
Secs. 7, 22 and 23 (fractional), excluding Akutan Island;
Secs. 26 to 29 (fractional), inclusive, excluding Akutan Island;
Sec. 32 (fractional), excluding Akutan Island.
Containing approximately 50 acres.
- T. 70 S., R. 112 W.
Secs. 32 and 34 (fractional), excluding Akutan Island.
Containing approximately 15 acres.
- T. 71 S., R. 112 W.
Sec. 18 (fractional), excluding Akutan Island.
Containing approximately 15 acres.
- T. 71 S., R. 113 W.
Secs. 4 and 7 (fractional), excluding Akutan Island.
Containing approximately 30 acres.
- T. 69 S., R. 114 W.
Secs. 24 and 26 (fractional), excluding Akutan Island.
Containing approximately 20 acres.
- T. 70 S., R. 114 W.
Sec. 16 (fractional), excluding Akutan Island;
Secs. 22, 25 and 26 (fractional), excluding Akutan Island.
Containing approximately 20 acres.
- T. 71 S., R. 114 W.
Sec. 12 (fractional), excluding Akutan Island;
Secs. 25, 26 and 27 (fractional), all;
Secs. 29 to 36 (fractional), all.
Containing approximately 2,390 acres.
- T. 72 S., R. 114 W.
Secs. 2 and 3 (fractional), all;
Secs. 4, 5 and 6, all;
Secs. 7 to 11 (fractional), inclusive, all.
Containing approximately 4,073 acres.
Aggregating approximately 10,792 acres within the Aleutian Islands National Wildlife Refuge [EO 1733].
Total aggregated acreage approximately 89,773 acres.

The conveyance issued for the surface estate of the lands described above

shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6647-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 D9, C5) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 6 C5) An easement for a proposed access trail twenty-five (25) feet in width from Lost Harbor in Sec. 6, T. 69 S., R. 110 W., Seward Meridian, northeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 7 C5) An easement for a proposed access trail twenty-five (25) feet in width from Akutan Village along the north shore of Akutan Harbor in Sec. 11, T. 70 S., R. 112 W., Seward Meridian, westerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

d. (EIN 9 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all

things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978 and published as final rulemaking on November 27, 1978, 43 FR 55326. Conformance will be made at a later date in accordance with the terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, the Akutan Corporation and other Aleut village corporations.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Grazing lease A-062012 to Charles M. Brown on Akutan Island within T. 70 S., R. 111 W., and Tps. 69, 70, 71 S., Rs. 112 and 113 W., Seward Meridian, under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a and 471o);

4. The following third-party interest created and identified by the Bureau of Indian Affairs as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (1976)):

a. Lease contract No. EOO14200079 issued to Wakefield Fisheries July 22, 1968, assigned to Pacific Pearl Seafoods, for the purpose of operating a land-based seafood processing plant located in Sec. 11, T. 70 S., R. 112 W., Seward Meridian on Akutan Bay. Containing approximately 20 acres.

5. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g) (1976)), that (a) the above-described lands which were within the boundaries of the Aleutian Islands National Wildlife Refuge on December 18, 1971, remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or

any part thereof is ever sold by the above-named corporation, is reserved to the United States;

6. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

7. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, The Akutan Corporation and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for The Akutan Corporation, serialized AA-6647-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 701 C Street, Anchorage, Alaska 99513.

The Akutan Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 89,773 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 2,387 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above, excluding those lands which have been withdrawn by EO 1733 and which are reserved thereby as a national wildlife refuge, shall be granted to The Aleut Corporation when conveyance is granted to The Akutan Corporation for the surface estate and shall be subject to the same conditions as the surface conveyance. Section 12(a)(1) provides that when a village corporation selects the surface estate of lands within a national wildlife refuge system, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands

affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until July 30, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If The Akutan Corporation or The Aleut Corporation objects to any easement which is identified herein for reservation in the conveyance, and which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is to be taken, the adverse parties to be served are:

The Akutan Corporation, Akutan, Alaska 99553.

The Aleut Corporation, 833 Gambell Street, Anchorage, Alaska 99501.

Judith A. Kammins,
Chief, Division of ANCSA Operations.

[FR Doc. 79-20025 Filed 6-26-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Land Management

California; Off-Road Vehicle Use Designations, King Range National Conservation Area

Under the authority of 43 CFR Part 8340 and the King Range Act, Pub. L. 91-476, the following vehicle use zones are established for the beach of the King Range National Conservation Area, Humboldt County and Mendocino County, California:

Closed to Vehicles

Gitchell Creek (Sec. 29, T. 4 S., R. 1 E., Humboldt Meridian) to Mattole River (Sec. 13, T. 2 S., R. 3 W., Humboldt Meridian).
Whale Gulch (Sec. 4, T. 24 N., R. 19 W., Mount Diablo Meridian) to Telegraph Creek (Sec. 4, T. 5 S., R. 1 E., Humboldt Meridian); except for vehicle use for boat launching at Shelter Cove.

Open to Vehicles

Telegraph Creek to Gitchell Creek.

With the exception of the three mile portion from the Punta Gorda Lighthouse to the Mattole River, the use zones shown above are as specified by the *King Range National Conservation Area, Management Program*, published in September, 1974. The management program was developed after intensive studies with considerable public involvement, and, in accordance with the King Range National Conservation Area Act, was submitted to Congress and the Governor of the State of California prior to adoption by the Secretary of the Interior.

The purpose of the closure zones is to protect natural and cultural resource values and prevent conflicts between vehicular and nonvehicular recreation uses.

The closure of the area between the Punta Gorda Lighthouse and the Mattole River is intended to prevent damage which is currently occurring to major archaeological sites within the zone. The closure of this zone is a temporary emergency measure which will be in effect until alternatives for protection of the archaeological sites can be fully analyzed in relation to other values in the area. All resource values will be evaluated and detailed management planning completed in 1980. The planning process will involve public participation.

Vehicle use in the closed zones will be prohibited except for required administrative use, emergency use, and access essential to private owners of lands adjacent to the beach. Access to private lands within the closed zones will be authorized by permits issued by the Ukiah District Office and will be granted for reasonable management and use purposes.

All vehicle operation is subject to regulations found in 43 CFR Part 8340.

These designations will be effective July 28, 1979 and until further notice. A map showing the use zones is available from the Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, CA 95482.

Dated: June 21, 1979.

Dean E. Stepanek,
District Manager.

[FR Doc. 79-20044 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[SAC 077399]

California; Order Providing for Opening of Lands

June 20, 1979.

Pursuant to the Order of the Federal Power Commission DA-1108 issued January 17, 1974, and by virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) (1970), as amended, and in accordance with the authority re delegated to me by the State Director, California State Office, Bureau of Land Management, issued January 21, 1977 (42 FR 3901), as amended, it is ordered as follows:

1. As found in DA-1108, the Commission offers no objection to the cancellation of PSC No. 72, 182 and 446 by the U.S.G.S. pursuant to its publication of Notice (39 FR 20220, June 7, 1974) to the extent that it affects the following described lands.

Mount Diablo Meridian Power Site Classification 72

T. 26 N., R. 1 W.,
Sec. 24, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 26, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, S $\frac{1}{2}$ SW $\frac{1}{4}$.
Approximately 360 acres.

POWER SITE CLASSIFICATION 182

T. 25 N., R. 1 E.,
Sec. 12, Lot 5;
Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 26 N., R. 3 E.,
Sec. 5, Lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 7, E $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 27 N., R. 3 E.,
Sec. 26, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 34, N $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 27 N., R. 4 E.,
Sec. 1, Lot 3 of NE $\frac{1}{4}$ (now Lot 6) Lot 4 of
NE $\frac{1}{4}$ (now Lot 5) E $\frac{1}{2}$ of Lot 4 of NW $\frac{1}{4}$,
Lots 7, 8, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 11, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;

Sec. 16, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 17, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 25 N., R. 1 W.,
Sec. 13, Lots 1, 2, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and
unsurveyed SE $\frac{1}{4}$ (now Lots 3, 4 and
N $\frac{1}{2}$ SE $\frac{1}{4}$).
T. 25 N., R. 1 W.,
Sec. 23, Lots 2, 3, 4, 6, 7.
Approximately 4,287.58 acres.

POWER SITE CLASSIFICATION 446

T. 28 N., R. 5 E.,
Sec. 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
Approximately 40 acres.

2. Of the lands described in Paragraph 1, the following are privately owned.

MOUNT DIABLO MERIDIAN POWER SITE CLASSIFICATION 182

T. 25 N., R. 1 E.,
Sec. 12, Lot 5.
T. 25 N., R. 1 W.,
Sec. 13, Lots 1, 2, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and
unsurveyed SE $\frac{1}{4}$ (now lots 3, 4 and
N $\frac{1}{2}$ SE $\frac{1}{4}$);
Sec. 23, Lots 2, 3, 4, 6, 7.

Power Site Classification 446

T. 28 N., R. 5 E.,
Sec. 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$.

3. The State of California has waived its preference rights of application for highway rights of way or material sites afforded it by Section 24 of said Act.

At 10 a.m. on July 30, 1979 the unappropriated, unreserved public lands described in Paragraph 1 above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. The lands embraced in the forest shall be open to such disposition as may be made of national forest lands.

All lands not otherwise withdrawn or reserved have been open to applications and offers under the mineral leasing laws and to location under the U.S. Mining Laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquires concerning these lands should be addressed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-20045 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 28343]

Pipeline Application; Northwest Pipeline Corp.

June 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way crossing approximately 0.240 mile of public land in Garfield County, Colorado. The right-of-way is for a 4.5' o.d. natural gas pipeline. The lands affected are described as:

T. 8 S., R. 104 W., 8th P. M.
Sec. 3, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The proposed pipeline will enable the applicant to convey natural gas from the Walter Fees-Federal #2-3-8-104 well to an existing Rocky Mountain Natural Gas Company's line.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction Team, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Edward Koeteew,

Acting Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 79-20046 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 28344]

Pipeline Application; Northwest Pipeline Corp.

June 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way crossing approximately 1.023 miles of public land in Garfield County, Colorado. The right-of-way is for a hookup to the Palmer-Federal #29-16 well comprised of 4½" o.d. natural gas pipelines. The lands affected are described as:

T. 7 S., R. 104 W., 6th P. M.
Sec. 33: SW¼NW¼.
T. 8 S., R. 104 W., 6th P. M.
Sec. 3: W½NW¼.

The proposed pipeline will enable the applicant to convey natural gas from the above-mentioned wellhead to an existing Rocky Mountain Natural Gas Company's pipeline.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction Team, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Edward Koeteew, *Acting Leader, Canon City-Grand Junction Team, Branch of Adjudication.*

[FR Doc. 79-20047 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 2744-a Through-c]

Pipeline Application; Northwest Pipeline Corp.

June 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P. O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way crossing approximately 10.6 miles of public land in Garfield and Mesa Counties, Colorado. The rights-of-way are for the Bar-X Gathering System and are comprised of 4½" o.d. natural gas lateral pipelines and well ties. The lands affected are described as:

Sixth Principal Meridian

T. 7 S., R. 104 W.
Sec. 30: E½W½
T. 8 S., R. 104 W.
Sec. 5: Lots 3, 4, S½NW¼, SW¼
Sec. 6: Lots 3, 4, 8, 11
Sec. 7: Lots 1, 2, 4, NE¼NE¼, SE¼SE¼
Sec. 8: E½NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, S½SW¼, N½SE¼
Sec. 18: Lots 1, 3, 4, N½NE¼, NE¼NW¼
T. 8 S., R. 105 W.
Sec. 12: NE¼NE¼, E½SE¼
Sec. 13: Lot 2, N½, NE¼SE¼

The proposed pipelines will enable the applicant to convey natural gas from wellheads in the Bar-X Field.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objection must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction Team, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Edward Koeteew, *Acting Leader, Canon City-Grand Junction Team Branch of Adjudication.*

[FR Doc. 79-20048 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67824]

Wyoming; Application**Correction**

In FR Doc. 79-17081, appearing on page 31727 in the issue of Friday, June 1, 1979, in the boundary description, fourth line, "28, 30, 31, 32, 33 and 34." should be corrected to read "28, 29, 30, 31, 32, 33 and 34."

BILLING CODE 1505-01-M

Tuledad/Home Camp Grazing System Implementation Wilderness Inventory (California); Final Decision

Under authority heretofore delegated by the Director, Bureau of Land Management, I hereby determine that public land administered by the Bureau of Land Management within intensive inventory unit CA-020-912 has been inventoried according to the provisions of Section 201(a) and 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) and Section 2(c) of the Wilderness Act of 1964 (Pub. L. 88-577) and that none of the unit meets the wilderness criteria of Section 2(c) of Pub. L. 88-577.

This area is delineated on a map entitled "WILDERNESS INITIAL INVENTORY" dated February, 1979, published by California State Office BLM and on a map included in a special mailing dated May 18, 1979, by the Susanville District BLM.

The unit inventories within the Susanville District not designated herein as a Wilderness Study Area will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94-579.

The wilderness review for public lands within CA-010-912 was accelerated within the time requirements of Section 603, Pub. L. 94-579 and the California statewide inventory in order to implement a key requirement of the Tuledad/Home Camp Grazing System as determined in recent environmental statements.

A key requirement in the implementation of the grazing systems is approximately 3,000 acres of range type conversion to provide early spring forage. This allows the native range a period of rest in a critical growth period. To begin planned and funded projects in the area this fall an accelerated inventory of one 39,000 acre unit, CA-

020-912, which contains the proposed range type conversion areas was conducted.

The final decision listed herein as a Non-Wilderness Study Area shall become effective July 29, 1979:

Persons wishing to protest the Non-Wilderness Study Area designation made herein shall have 30 days after publication of this, the final designation, of the State Director, California is published in the Federal Register to file a written protest. Protests must include a clear and concise statement of reasons for the protest; and, must furnish supporting data to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825. The State Director, California will render a decision on any such protest so received.

Any person adversely affected by the State Director's decision on such written protest filed by such person may appeal such decision by following normal administrative procedures applicable to formal appeals to the Interior Board of Land Appeals which are published in 43 CFR Part 4.

Additional information concerning this final decision can be obtained from the Wilderness Coordinator at the Susanville District Office.

Final Decision

The California State Director's final decision on the wilderness inventory unit is as follows: CA-020-912.

The public lands contained within this unit do not meet the criteria for identification as a Wilderness Study Area and will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94-579.

I. Physical Boundaries

The unit lies entirely in Washoe County, Nevada. The west boundary is formed by a road running from Sand Spring south to Nevada Highway 34 and the highway southeast to its intersection with the road to Stevens Camp. The east boundary is formed by the road to Stevens Camp northward to the junction near Grassy Cabin. The unit boundary is completed by a road from Grassy Cabin northwest to Sand Spring.

II. Land Ownership

The unit is comprised of 38,480 acres of public land and 420 acres of non-public land in eight scattered tracts varying in size from 40 acres to 120 acres.

III. Description of Environment

The landscape is dominated by an undulating north-south ridgeline centrally located, running the unit's length, and averaging less than 2 miles in width. Surrounding the ridgeline and extending to the unit boundaries are flat to rolling slopes broken by very shallow ephemeral drainages. Big sagebrush is the major vegetation over the unit with a few isolated patches of juniper and mahogany trees at higher elevations.

IV. Natural Condition

The unit has not retained a natural condition: man's imprint upon the landscape can be seen throughout much of this unit. Sixteen miles of bulldozed fenceline bisects the area and 30 miles of vehicular route of travel not meeting road criteria (ways) meander throughout the area. Additionally, 5.5 miles of fence enclose a 975 acre area planted with non-native grasses and 5 miles of deadend roads exist within the unit. The unit is unnatural in character.

V. Outstanding Opportunities for Solitude or a Primitive and Unconfined Type of Recreation

The area does not have inherent natural features to provide outstanding opportunities for solitude or a primitive and unconfined type of recreation. The centrally located ridge which overlooks the area and the flat low sagebrush-covered terrain surrounding the ridge would not isolate visitors from one another. The non-extensive and non-complex ridge and associated flats would not offer an exceptional change for one to engage in a primitive type of recreation.

VI. Summary of Public Comments

In general, commenters concurred with the proposed decision that the public lands did not meet the wilderness criteria and should not be recommended as a Wilderness Study Area.

Robert E. Metzger,
Acting State Director.

[FR Doc. 79-20043 Filed 6-27-79; 8:45 am]
BILLING CODE 4310-84-M

Advisory Committee for Formulation of Management Plan for Iditarod National Historic Trail

Notice is hereby given pursuant to Section 551 of the National Parks and Recreation Act of 1978 that the Bureau of Land Management is establishing an advisory council for the purpose of providing public participation in the formulation of a management plan for the Iditarod National Historic Trail

which lies between Seward and Nome, Alaska.

The advisory council shall advise the Secretary of the Interior and the Bureau of Land Management on matters relating to the trail such as the selection of rights-of-way, standards for trail management, and cooperative management agreement.

Members of the council, which may not exceed 35 in number, shall serve for a term of two years and without compensation. The council will include representatives of Federal Agencies, State and local governments administering lands along which the trail lies, and private organizations and owners which have a recognized interest in the trail.

Nomination forms may be obtained from Gary Brown, project leader, Bureau of Land Management, 4700 East 72nd Avenue, Anchorage, Alaska 99507. Completed forms should be returned by September 1, 1979.

Arnold E. Petty,
Acting Associate Director.

June 20, 1979.

[FR Doc. 79-20043 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

Grazing Advisory Board Meeting

June 21, 1979.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Idaho Falls District Grazing Advisory Board will be held July 25, 1979.

This meeting will consist of a tour of the Little Lost River Valley for the following purposes:

(1) Review and discussion of allotment management plans that are proposed for implementation in the area as a result of the Little Lost-Birch Creek Management Draft Environmental Statement.

(2) Expenditure of range betterment funds for Fiscal Year 1980.

Advisory Board members will meet at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho, at 8:30 a.m. for transportation to Howe, Idaho.

The meeting to discuss expenditure of range betterment funds will begin at the BLM trailer house in Howe at 10:00 a.m. The meeting and tour are open to the public. Interested persons may make oral statements to the Board between 10:30 and 11:00 a.m. or file written statements for the Board's consideration. Anyone wishing to make an oral statement or wishing to participate on the tour must notify the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho, by July 18, 1979. Tour

participants who are not members of the Advisory Board must furnish their own transportation.

Summary minutes of the tour and meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Harold E. Isaacson,

Acting District Manager.

[FR Doc. 79-20050 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68178]

Wyoming; Application

June 20, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana-Dakota Utilities Company of Bismarck, North Dakota filed an application for a right-of-way to construct a natural gas processing plant and an access roadway and pumping and compressor units and an instrument building across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 50 N., R. 93 W.,

Sec. 28, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

The proposed natural gas processing plant will occupy 1.38 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of section 28. The proposed access roadway will connect the proposed site to a highway in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ in section 28, all within T. 50 N., R. 93 W., Big Horn 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, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-20051 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67297]

Wyoming; Application

June 20, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4 $\frac{1}{2}$ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 93 W.,

Sec. 2, N $\frac{1}{2}$ S $\frac{1}{2}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$.

This proposed pipeline will transport natural gas from the Federal 1-4 Well located in the SW $\frac{1}{4}$ of Section 4, T. 19 N., R. 93 W., into their existing Wamsutter F 49 natural gas pipeline located in the SE $\frac{1}{4}$ of section 2, T. 19 N., R. 93 W., Carbon 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, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-20052 Filed 6-27-79; 8:45 am]

BILLING CODE 4310-84-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-317]

Baltimore Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-53, issued to Baltimore Gas & Electric Company, which revised Technical Specifications

for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment authorizes operation with modified guide tubes for the Control Element Assemblies with a high burnup demonstration fuel assembly installed in the core and revises the Technical Specifications to incorporate changes resulting from the analysis of Cycle 4 reload fuel.

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. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

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 February 23, 1979 with supplemental information dated January 12, February 7, March 13 and May 7, 29 and 31, 1979, (2) Amendment No. 39 to License No. DPR-53, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. 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 14th day of June 1979.

For the Nuclear Regulatory Commission.
Robert W. Reid,
*Chief, Operating Reactors Branch #4,
Division of Operating Reactors.*
[FR Doc. 79-20070 Filed 6-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-471 CP]

Boston Edison Co.; Order for Resumption of Evidentiary Hearing

In the Matter of Boston Edison Company (Pilgrim Nuclear Generating Station, Unit 2).

Evidentiary sessions will resume at 11 a.m. on July 12, 1979, at the Suffolk County Courthouse, Room 304, Pemberton Square, Boston, Massachusetts, and at 1 p.m. on July 16, 1979, at the Memorial Hall, Blue Room, 83 Court Street, Plymouth, Massachusetts.

It is so ordered.

Dated at Bethesda, Maryland, this 22nd day of June, 1979.

For the Atomic Safety and Licensing Board.
Andrew C. Goodhope,
Chairman.

[FR Doc. 79-20069 Filed 6-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. NPF-3, issued to the Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment modifies License Condition 2.C.(3)(k) as it relates to the schedule for performing noise and isolation testing.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required

since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 23, 1979, (2) Amendment No. 17 to License No. NPF-3 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. 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 18th day of June 1979.

For the Nuclear Regulatory Commission.
Robert W. Reid,

*Chief, Operating Reactors Branch No. 4,
Division of Operating Reactors.*

[FR Doc. 79-20074 Filed 6-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co. and Indiana & Michigan Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 29 and 11 to Facility Operating License Nos. DPR-58 and DPR-74 issued to Indiana and Michigan Electric Company, which revised the Appendix A Technical Specifications for operation of the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities), located in Berrien County, Michigan.

These changes to the Technical Specifications authorize the deletion of the low pressurizer pressure water level coincidence logic for safety injection actuation and conversion to a two out of three channel logic on low pressurizer pressure only (for safety injection actuation). Also the P-11 setpoint in Unit 2 has been changed to provide additional operating margin without inadvertent actuation of the safety injection system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's 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 amendments.

The Commission has determined that the issuance of these amendments 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 these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 6, 1979, (2) Amendment Nos. 29 and 11 to Facility Operating License Nos. DPR-58 and DPR-74, and (3) the Commission's Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Josephs, Michigan 49085. 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 21st Day of June.

For the Nuclear Regulatory Commission.
A. Schwencer,

*Chief, Operating Reactors Branch #1,
Division of Operating Reactors.*

[FR Doc. 79-20071 Filed 6-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. et. al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. NPF-1 issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

The amendment deletes pressurizer level as an input to safety injection

actuation, and requires actuation of safety injection based on two out of three channels of low pressurizer pressure.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 6, 1979, as supplemented June 20, 1979, (2) Amendment No. 41 to License No. NPF-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. 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 22nd day of June, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch #1,
Division of Operating Reactors.

[FR Doc. 79-20072 Filed 6-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312-SP]

Sacramento Municipal Utility District; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register (37 FR 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and

Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Sacramento Municipal Utility District

(Rancho Seco Nuclear Generating Station)

Facility Operating License No. DPR-54

This action is in reference to an Order published by the Commission on May 11, 1979, in the Federal Register (44 FR 27779-80) directing that the Rancho Seco facility, then in a shutdown condition, should remain shut down until certain actions specified in the Order were satisfactorily completed, and to the subsequent Order of the Commission issued on June 21, 1979, directing the establishment of an Atomic Safety and Licensing Board to preside in this proceeding.

The Chairman of this Board and his address is as follows: Michael L. Glaser, Esq., 1150 17th Street, N.W., Washington, D.C. 20036.

The other Members of the Board and their addresses are as follows:

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 22nd day of June 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-20073 Filed 6-27-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-26]

Special Study, Safety Recommendations and Responses; Availability

Aviation Special Study

Single-Engine, Fixed-Wing General Aviation Accidents, 1972-1976 (NTSB-AAS-79-1). The National Transportation Safety Board on June 18 released copies of its study of more than 17,000 general aviation accidents which occurred during a five-year period. This study has raised safety questions for which, the Board has determined, the aviation

industry should seek answers through research and analysis.

The study covered accidents involving single-engine, propeller-driven, fixed-wing general aviation (non-airline) aircraft. The Board emphasized that its findings did not produce evidence that any of the aircraft are unsafe or that certain manufacturers build aircraft that are not safe. Further data which are not yet available must be considered before conclusions can be drawn from the study findings.

Based on the results of this study, the Safety Board on June 5 recommended that the Federal Aviation Administration generate, through a stratified sampling of general aviation pilots, the date, duration, aircraft make and model, the geographical location of the flight, and the flight time in IFR, high density altitude, and wind conditions, all on a per flight basis; the data collected should include the pilot's total time, time in each type aircraft flown, age, occupation, certificate, and medical waivers. (Recommendation A-79-44; see also 44 FR 34222, June 14, 1979.)

Highway Safety Recommendation Letter

H-79-36 through 39.—The Safety Board has completed its investigation of the accident which occurred last November 11 when a stationwagon with 13 occupants exited from Interstate 10 (San Bernardino Freeway) onto a branch connection ramp which led to the southbound California State Route 7 (Long Beech Freeway), near Alhambra, Calif.

At the time of the accident, about 3:40 p.m., p.s.t., it was raining and the roadway was wet. As the stationwagon negotiated the ramp, the driver lost control and the vehicle crashed through a bridgerail and fell to the roadway below, landing on its roof. The Safety Board notes that from November 1975 to November 1978 there were 46 reported traffic accidents at this location; 24 (52 percent) of these occurred during wet weather and 12 involved the bridgerail.

In its safety recommendation letter issued June 18 to the Governor of California, the Safety Board notes that the California Department of Transportation has initiated a safety improvement project report for the crash site as part of its highway safety improvement program. The report, prepared during the summer of 1978, classified the location as a high-accident concentration location and proposed that the existing panel bridgerail be replaced and that the superelevation through the horizontal curve be increased by adding an asphalt pavement overlay. However, as of May

4, 1979, the safety improvement project has not been implemented. Since the accident another vehicle has crashed through the bridgerail at this site. Accordingly, the Safety Board recommends that the State of California:

Until the accident site is improved, install "Slippery When Wet" warning signs at the Ramona Boulevard entrance ramp and the branch connection ramp from I-10, and install a 25-mph speed advisory sign at the Ramona Boulevard entrance ramp. (H-79-36)

Establish a policy and program consistent with Federal Highway Administration guidelines and safety standards that will provide for upgrading substandard bridgerailing that has been crash-damaged. (H-79-37)

Expedite action to complete and adopt the California Department of Transportation safety improvement project for the accident location and make the recommended safety improvements to comply with current safety guidelines. (H-79-38)

Establish a program to retrofit, on a priority basis, bridgerailing that does not meet Federal performance guidelines, which provide that bridgerailings be designed to minimize severity of impact, retain the vehicle, redirect the vehicle so that it will move parallel to the roadway, and minimize danger to traffic below. (H-79-39)

Recommendation H-79-36 is designated "Class I, Urgent Action"; the other three recommendations are "Class II, Priority Action." Copies of the Safety Board's formal investigation report on this accident are being prepared for distribution and will be made available in the near future.

Responses to Safety Recommendations

Aviation

A-78-44.—The Federal Aviation Administration on June 18 reported on actions taken to implement this recommendation, developed as a result of the Safety Board's special study, "General Aviation Stall/Spin Accidents, 1967-1969." The recommendation asked FAA to send the detailed stall/spin ground and flight training syllabus developed in the training study to all certificated flight schools and commercial flight instructors. (See 43 FR 30149, July 13, 1978.)

FAA reports that a letter expressing FAA's concern in several areas of aviation operations was sent to all industry sponsors of FAA-approved flight instructor refresher courses. This letter includes reference to and recommendations for use of the "General Aviation Pilot Stall/Spin Awareness Training Study." Also, the FAA Examiner Standardization Section has incorporated stall/spin information into the standardized training course.

Highway

H-78-17 and 16.—The National Highway Traffic Safety Administration on June 12 responded to the Safety Board's letter of April 16 commenting on NHTSA's previous response dated March 12 (44 FR 20518, April 5, 1979). The recommendations, issued following investigation of the collision of a motor home and an automobile near McAlester, Okla., July 14, 1977, proposed a revision of procedures for testing door-latch performance.

The Safety Board, strongly believing that a dynamic performance-oriented door latch test offers a more realistic simulation of actual loading conditions than the static load tests now employed, stated on April 16 that it was looking forward to the publication of the proposed amendment to the Federal Motor Vehicle Safety Standard No. 206, Door Locks and Door Retention Components. The Board hoped that this amendment will include dynamic tests and create a safer environment for protection of the door latch assembly. The Board also referred to its December 13, 1978, letter, written in the hope of clarifying the extent of NHTSA participation in the Society of Automotive Engineers (SAE) Latch and Hinge Subcommittee. Also, the Safety Board encouraged NHTSA to act expeditiously in assigning a responsible staff member to work closely with the SAE subcommittee.

NHTSA reports in its June 12 letter that it has sent representatives to meetings of the SAE subcommittee in the past. However, NHTSA's approach to consideration of vehicle design has changed from emphasis on specific components like hinges and latches to the more general performance of the entire side of the vehicle. Because of this change in emphasis, NHTSA did not send a representative to the recent subcommittee and does not plan to send representatives in the future. However, NHTSA states that two of its staff engineers have been designated to answer any questions that the Safety Board or the SAE subcommittee may have on NHTSA's side impact work and to help coordinate any activities that SAE may care to undertake with respect to improving the safety of door latches and hinges.

H-78-45.—On June 7, 1978, the Safety Board issued to the Governors of the 50 States a safety recommendation which called for a review of the State driver licensing program(s) to insure that it conforms to the one-license concept and the driver improvement program suggested by Highway Safety Program

Standard No. 5, Driver Licensing, and by the guidelines set forth in Chapter 6 of the Uniform Vehicle Code. This recommendation was issued following investigation of the March 8, 1977, schoolbus-truck collision on U.S. Highway 29, near Rustburg, Va., which killed three of the 33 occupants of the schoolbus. (See 43 FR 25888, June 15, 1978.)

As of June 1, 1979, 23 State Governors have submitted comments to the Safety Board, as indicated below; of these, 14 have commented in a favorable manner, shown by asterisk:

- | | |
|---------------|------------------|
| • Alaska | • Nevada |
| • Colorado | • New Mexico |
| • Connecticut | • New York |
| • Delaware | • North Carolina |
| • Florida | • Ohio |
| • Hawaii | • South Dakota |
| • Illinois | • Tennessee |
| • Kentucky | • Texas |
| • Maine | • Vermont |
| • Michigan | • Virginia |
| • Mississippi | • Washington |
| • Missouri | |

The responses have included statements on related matters such as needed changes in individual State laws to provide authority for administering the one-license program, need for enhancing the operation of the National Driver Register, suggestions for cooperation with other States, and further study of the problem.

H-78-71.—Letter of June 11 from the National Railroad Passenger Corporation (Amtrak) is in response to a recommendation issued last December 27 following investigation of the October 2, 1977, grade crossing accident at Plant City, Fla., when a westbound Amtrak passenger train struck a northbound pickup truck. The recommendation called on the Federal Highway Administration, the Federal Railroad Administration, Amtrak, the Seaboard Coast Line Railroad Company, and the Florida Department of Transportation to cooperate in taking necessary corrective action to reduce the high frequency of railroad/highway grade crossing accidents along the 240 miles of track between Jacksonville and Tampa, Fla. (Recommendation H-78-71; see 44 FR 3795, January 18, 1979.) The Safety Board inquired of Amtrak on May 23 as to the status of implementing this recommendation.

Amtrak reports that on April 2, 1976, a letter was sent to the Seaboard Coast Line Company (SCL) requesting that a joint effort be initiated by Amtrak, SCL,

and the Florida DOT, as well as Federal, State, and local agencies. A meeting between Amtrak and SCL was held in June 1976 when a first study team was established; a thorough study of all grade crossings was begun in July 1977. The study was completed in May 1979. All grade crossings in the Jacksonville-Tampa corridor have been evaluated. Each crossing has been assigned a priority upgrading number and project completion date. Amtrak, SCL, and Florida DOT have agreed to fund the capital costs of the Pilot Program. Amtrak says that local municipalities must now be urged to fund their share of the annual maintenance costs of newly installed devices. SCL is responsible for carrying out the installation of the crossing protection at these crossings.

In addition to the grade crossing study, capital equipment expenditures, and project planning, Amtrak, SCL, and Florida DOT have been participating actively in the "Operation Lifesaver" Program in all municipalities along this corridor. During 1978, radio stations WCRJ-Jacksonville, WCIE-Lakeland, and television station WTOG-St. Petersburg have carried the "Operation Lifesaver" message. A total of 334 "Operation Lifesaver" programs were presented to 32,742 people along this corridor in an all-out effort to inform the driving public of the hazards of rail-highway grade crossings.

Marine

M-78-45 through 52.—On June 4 the U.S. Coast Guard responded to the Safety Board's comment of February 7 concerning Coast Guard's initial response of last December 22 (44 FR 3796, January 18, 1979.) The recommendations were developed as a result of the investigation and analysis of grounding of the M/V DAUNTLESS COLOCOTRONIS in the Mississippi River near New Orleans, La., July 22, 1977.

Recommendations M-78-45, 46, and 47 asked Coast Guard, in conjunction with the U.S. Army Corps of Engineers, to develop standards defining what constitutes a hazard to navigation in the Mississippi River for better enforcement of 33 CFR Part 64 and to prepare a summary of wrecks that are a hazard to navigation in the Mississippi River and distribute the summary in a manner similar to a Local Notice to Mariners; also, Coast Guard was asked to insure that depths of water over wrecks in the Mississippi River are stated in terms of mean sea level in Local Notices to Mariners and Broadcasts to Mariners.

In response to the Board's February 7 request for information as to Coast Guard's projected schedule for development of these standards, Coast Guard reports that a study group has been designated comprised of representative of the Second and Eighth Coast Guard District Commanders' staffs and the Corps of Engineers. Coast Guard plans to convene the first meeting later this quarter. On April 9, 1979, the Commander, Second Coast Guard District, published a Special Local Notice to Mariners containing a list (copy attached to the June 4 response) of known wrecks in the Second District, but no attempt has been made to identify those wrecks on the list which may be hazards to navigation. Coast Guard further reports that there are no plans in the Second Coast Guard District to reference depths to mean sea level. The practice of reference depth to river stage as measured at the appropriate gauge will continue. The practice in the Eighth Coast Guard District will be addressed by the Study Group.

With respect to recommendation M-78-48, which asked Coast Guard to seek international agreement to improve the firefighting training for officers and crew on tankships, the Safety Board said it believes that the international program described for training, certification, and watchkeeping for seafarers is in line with the intent. The Board asked to be advised if the United States sponsored, supported, or has signed the agreement. Also, the reissue of the proposed rule for tankerman requirements is also a positive step.

In response, Coast Guard says that the United States has supported the creation of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (1978 STCW) since establishment of the Subcommittee on Standards of Training and Watchkeeping in October 1971. This Convention contains specific requirements for firefighting training for the officers and crew on tankships. The 1978 STCW Convention was opened for signature last December 1 and will remain open until November 30, 1979. The 1978 STCW Convention was signed, subject to ratification, on behalf of the United States on January 25, 1979. Coast Guard says that the United States will encourage the ratification of the 1978 STCW Convention by all nations.

Recommendation M-78-49 asked Coast Guard to insure that all foreign tankships that enter U.S. waters comply with the 1960 Safety of Life at Sea

Convention (SOLAS) requirements for fire drills. The Board's February 7 letter indicates that the Board envisioned a random sampling of operational practices with an appropriate sanction for noncompliance and did not mean to imply that all foreign-flag tankerships that enter U.S. water should be boarded to enforce the fire drill requirements of the 1960 SOLAS Convention. Investigation of the COLOCOTRONIS accident led the Board to conclude that the fire would have been less severe had the crew been more responsive and that their reaction to the fire would have been improved by the fire drills required by that Convention. The Board believes that a means of regularly enforcing this requirement must be implemented.

Coast Guard in answer says that it fully supports, and participates in, upgrading international standards for training and watchkeeping but cannot support conducting random fire drills aboard foreign-flag tankships during critical operational periods such as while navigating in and out of U.S. ports, during cargo transfer, ballasting, or crude oil washing operations. Coast Guard states, "Coast Guard presence aboard foreign flag tankships for the purpose of conducting safety examinations and monitoring of cargo transfer operations must be rigidly controlled to maintain a quality of presence which will fully ensure the safety of the port, environment, ship and crew, with a minimal disruption to foreign tankship operation or movement. This quality presence must not be allowed to deteriorate to quantify presence by the continual adding of unilateral requirements based on singular casualty incidents."

With reference to M-78-50, the Safety Board stated that the international and national actions described by Coast Guard in its December 22 letter for inclusion of the fire safety requirements of the 1974 SOLAS Convention are acceptable, but files will remain open pending results of the actions described. Coast Guard states that, pending evidence that fire and boat drills are not being regularly conducted on the majority of foreign flag tankships in accordance with SOLAS 1960, it cannot change its position based solely on a conclusion involving one casualty.

The Safety Board approved Coast Guard's proposal for a display of an arrangement plan of a ship in a prominent place outside the deckhouse to be presented to the SOLAS working group for consideration. Coast Guard reports that the U.S. SOLAS working group met in early March and agreed to send the proposal to the 23rd session of

the IMCO Subcommittee on Fire Protection which meets in July 1979.

Recommendation M-78-52 asked Coast Guard to seek international agreement to require that cargo pumps on tankships be segregated from all sources of vapor ignition by gastight bulkheads and that pump shafts penetrating these bulkheads be fitted with stuffing boxes or other approved glands which will prevent vapor ignition.

The Safety Board agrees that, through IMCO Resolution A.325(IX), an international standard has been developed to cover the segregation of cargo pumps and ignition sources as well as properly fitting penetrations of the bulkhead. However, the Board believes that in order for the IMCO Resolution to be effective it must be incorporated in an international convention or made mandatory on foreign tankships through national regulations. Contributing to the intensity of the fire on the COLOCOTRONIS, the Board stated in its February 7 letter, was the flow of oil through an improperly installed shaft through a watertight bulkhead. The Board believes that IMCO Resolution A.325(IX) needs to be incorporated into the 1974 SOLAS Convention or national regulations promulgated in order to make this standard effective. Coast Guard reports that that Resolution will be incorporated in the 1974 SOLAS Convention as an amendment to that convention, and this change is anticipated in late 1980 or early in 1981.

Pipeline

P-78-65.—On May 17 the Governor of Texas responded to the Safety Board's comments of April 17 on his initial response of March 22 (44 FR 23395, April 19, 1978) to a recommendation issued in conjunction with the Board's special study, "Safe Service Life for Liquid Petroleum Pipelines." The recommendation asked the Governors of Oklahoma and Texas to take action to develop and implement statewide "one-call" excavation notification systems for protection of pipelines during excavation operations.

The Safety Board on April 17 advised the Governor that in his preliminary planning steps, he make use of experience and talents of the American Public Works Association (APWA) and the U.S. Department of Transportation's Materials Transportation Bureau. The Board also provided a copy of the APWA brochure, "An Invitation to Join the Utility Location and Coordination Council," and advised that recommendation P-78-65 would remain

in open status until Texas legislation becomes law and the actual program implementation begins. The correspondence of May 17 from the Governor is a copy of a letter directed to the Chairman of the Railroad Commission of Texas. The Governor furnished copies of previous correspondence with the Safety Board and asked to be apprised of progress in dealing with the statewide problem.

Railroad

R-72-5, R-74-21, and R-78-27.—The Federal Railroad Administration on May 31 provided additional information concerning implementation of these recommendations which concern the redesigning of locomotive operator compartments to minimize crash damage and to protect the occupants of the locomotive cab.

With reference to R-72-5, FRA reports directing research toward improved design of locomotive operator compartments to resist crash damage. Full-scale impact tests have identified many potential problems leading to the development of current guidelines and concepts which are incorporated in locomotives being constructed now, such as anti-climbers, a slopping front, and collision posts with increased strength. FRA expects to have completed within the next 24 months crashworthiness studies to improve structural guidelines and anti-climb protection to minimize injuries sustained by occupants of the locomotive cab. After completion of these tests, when the data has been analyzed, FRA will work with industry to prepare guidelines to improve crashworthiness of locomotive compartments.

In connection with R-74-21, FRA notes that its Office of Research and Development had sponsored and initiated a series of studies to evaluate locomotive control compartment crashworthiness. At present, FRA has directed similar research through the Locomotive Control Compartment Committee, a group including representatives from the Government, the railroad industry, and railroad labor groups. FRA research is directed at improving control compartment safety, including seat design, which will provide easy egress to the engineer during emergencies. These research efforts are also in implementation of related recommendation R-78-27. FRA expects to complete the studies within the next 24 months; however, additional time will be needed to evaluate the appropriate findings and determine the need for Federal regulations.

R-76-17.—FRA on June 15 respond to the Safety Board's inquiry of March 14, 1979, concerning the status of this recommendation which asked that FRA insure that the Massachusetts Bay Transportation Authority (MBTA) implements the recommendations made by its investigating committee.

FRA reports that recent correspondence with the MBTA investigating committee indicates that all recommendations have been implementing with the exception of the following classifications:

Signal Maintainer: There has been no change in the working hours of the Signal Maintainer.

Car Side Doors: A means of opening the side doors of the "Silver Bird" cars from outside has not been devised as of June 15.

Safety and Training: Classes are scheduled for new inspectors and starters. Attendance is not mandatory, however, all are required to pass a written examination. A new rule book is now being printed and should be available within 30 days.

In view of the December 1977 U.S. Court of Appeals decision to exclude rapid transit systems from FRA's jurisdiction, FRA urges the Safety Board to close recommendation R-76-17.

Note.—Single copies of the Safety Board's accident reports and special studies are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters, recommendation responses, 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 and special studies 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)).)

Dated: June 25, 1979.

Margaret L. Fisher,
Federal Register Liaison Officer.

[FR Doc. 79-20067 Filed 6-27-79; 8:43 am]

BILLING CODE 4910-58-M

Closing of Oakland Field Office

The Oakland, Calif., Field Office of the National Transportation Safety Board will be closed effective August 10, 1979, at which time all functions formerly performed by that office will be transferred to the Los Angeles Field Office. The area of responsibility for the Los Angeles Field Office will encompass

the entire States of California, Nevada, and Arizona.

All agencies and individuals having business with the Oakland Field Office will contact the Los Angeles Field Office after August 10 for service. The office is located at 8939 South Sepulveda Boulevard, Suite 426, Los Angeles, Calif. 90045. Telephones: 213-538-6584 (commercial); 966-5958 (FTS).

Dated: June 21, 1979.

William L. Lamb,

Chief, Field Investigation Division.

(FR Doc. 79-20088 Filed 6-27-79; 8:45 am)

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

June 25, 1979.

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 USC, 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

New Forms

Economics, Statistics, and Cooperatives Service

Hired Farm Work Force Survey—Pilot Test

Single time

Hired farm workers, 15,720 responses, 1,300 hours

Off. of Federal Statistical Policy & Standard, 673-7974.

Revisions

Animal and Plant Health Inspection Service

Viruses—Serums—Toxins Regulations on occasion

Biologics Producers, 19,484 responses, 20,008 hours

Charles A. Ellett, 395-5080.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377-4217

New Forms

Bureau of the Census

1977 Special Survey of Women-Owned Businesses

S-500 & S-500L1, L2 & L3

Single time

Women-owned businesses, 20,000 responses, 6,500 hours

Off. of Federal Statistical Policy & Standard, 673-7974.

Revisions

Bureau of the Census

*Quarterly Survey—Selected local taxes F-73

Quarterly

Description not furnished by agency, 220 responses, 55 hours

Richard Sheppard, 395-3211.

Bureau of the Census

*Quarterly Survey of Property Tax Collections

F-71

Local government property tax collectors, 25,600 responses, 6,400 hours

Richard Sheppard, 395-3211.

Maritime Administration

*Port Facility Inventory

MA-400

Annually

Port Authorities/Terminal Oper., 1,000 responses, 325 hours

Richard Sheppard, 395-3211.

Extensions

Bureau of the Census

*State Tax Collections—Quarterly Survey

F-72

Quarterly

50 State Governments, 200 responses, 100 hours

Richard Sheppard, 395-3211.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Departmental and other

Cost/Schedule Status Report (C/SSR) Monthly

Selected defense contractors, 3,600 responses, 10,800 hours

David P. Caywood 395-6140.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

Survey and Evaluation of Available Thermal Insulation Materials for use in Solar Heating and Cooling Systems

EIA-187

Single time

Manufacturers of Insulation 800 responses, 267 hours

Jefferson B. Hill 395-5867.

Annual Report on Gas and Electric Utilities

ERA-166A & 166B

Annually

Gas and electric utilities 407 responses, 11,810 hours

Jefferson B. Hill, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration

Criterion Validity of the Diagnostic Interview Schedule

Single time

Individuals under treatment, 670 responses, 670 hours

Richard Eisinger, 395-3214.

Alcohol, Drug Abuse and Mental Health Administration

Content Validity of the NIMH Diagnostic Interview Schedule

Single time

Diagnosed individuals, 80 responses, 80 hours

Richard Eisinger, 395-3214.

National Institutes of Health

"Contraceptive Decisions Spousal Relationship Method Commitment and Expectancy-Values"

Single time

Description not furnished by agency

Off. of Federal Statistical Policy & Standard, 673-7974.

Office of Human Development Instruments for Migrant Head Start Program Evaluation

Single time

Description not furnished by agency, 1,692 responses, 1,170 hours

Barbara F. Young, 395-6132.

Revisions

Office of Human Development

*Quarterly Estimates of Expenditures Under Approved Child Welfare

Services Plan and Request for Grant Award

CWS-10

Quarterly

State Public Welfare Agencies, 220 responses, 67 hours

Barbara F. Young, 395-6132.

Office of Human Development

*Annual Budget for Child Welfare Services

CWS-2

Annually

State Public Welfare Agencies, 55 responses, 28 hours

Barbara F. Young, 395-6132.

Social Security Administration

Applications and Discontinuances for Aid to Families with Dependent Children (AFDC) and Medicaid

SSA-3800

Quarterly

State agencies or public assistance, 216 responses, 864 hours

Barbara F. Young, 395-6132.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755-5190

News Forms

Housing Management

HUD-52726, FY 1979 Discretionary

Operating Subsidy Fund—Performance & Reserve Data & HUD-52727, FY 1979 Discre.

Opera. Sub. Fund Calcu. of PHA

Performance Score

HUD-52726 & HUD-52727

Single time

Public housing Agencies, 350 responses, 350 hours

Budget Review Division, 395-4775.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

Revisions

Drug Enforcement Administration

Project Dawn (Drug Abuse Warning Network)

Weekly

Physicians medical personnel, 122,816 responses, 21,153 hours

Richard Eisinger, 395-3214.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

National Highway Traffic Safety Administration

NHTSA Financial Assistance Program Application

Other (See SF-83)

Indiv. & Organ. Inter. in & Knowl. about NHTSA rulema. sub., 40 responses,

320 hours,

Susan B. Geiger, 395-5867.

Revisions

Federal Aviation Administration Major Repair and Alternation (Airframe,

Powerplant, Propeller, OB Appliance) FAA 337

On occasion

Airmen, 152,425 responses, 147,565 hours

Susan B. Geiger, 395-5867.

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-20102 Filed 6-27-79; 8:45 am]

BILLING CODE 3110-01-M

Cost Principles—State and Local Government

This notice offers interested parties an opportunity to comment on a proposed revision to Circular 74-4, "Cost principles applicable to grants and contracts with State and local governments." The revision would modify the rules dealing with costs of office space used in federally assisted programs.

At the present time, Circular 74-4 provides that the rental cost of space in a privately owned building is allowable. It is silent about rental charges for space in publicly owned buildings. The revision under consideration would modify this provision by recognizing internal "rental rate" arrangements used by State and local governments to allocate the cost of space. These rates, if approved by the grantor agency, would be based on actual cost, including depreciation, interest, operation and maintenance costs, and other allowable costs. As is now the case, the total cost of space, whether in a privately or publicly owned building, would not be allowed to exceed the rental cost of comparable space in the same locality.

The proposed revision would also modify the provision dealing with interest and other financing costs, to make it consistent with the proposed provision on rental costs.

The specific changes being considered are as follows:

Attachment B, paragraph C.2.a.

"Rental cost. The rental cost of space in a privately owned building is allowable. Where "rental rate" systems are employed for publicly owned buildings, newly occupied on or after October 1, 1979, rental charges are allowable, provided that the charges are determined on the basis of actual cost

(including depreciation based on the useful life of the building, interest paid or accrued, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere."

Attachment B, paragraph D.7.

"Interest and other financial costs. Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation, and except as provided for in paragraph C.2.a. of this Attachment."

The Office of Management and Budget has, as yet, made no decision with respect to the proposed revision. All interested parties are encouraged to make their views known.

Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. Contact person: John J. Lordan, (202) 395-6823. All comments should be received on or before September 1, 1979.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 79-20104 Filed 6-27-79; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Docket No. A79-22; Order No. 285]

Bill, Wyoming 82631 (Ms. Sherry Cline, et al., Petitioners); Order of Filing of Appeal

Issued June 22, 1979.

On June 11, 1979, the Commission received a handwritten letter from Ms. Sherry Cline (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to close the Bill, Wyoming post office.¹ Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to § 404(b) of the Postal Reorganization Act [39 U.S.C. § 404(b)], so as to preserve Petitioners' right to appeal which is subject to a 30-day time limit.² Since the petition was apparently

not written by an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.³ However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.⁴

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to ". . . ensure that such persons will have an opportunity to present their views."⁵ The petition requests that the decision to close the Bill post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. § 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.⁶

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.⁷

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under § 404(b)(2)(A) of the Act. Petitioner claims that the proposed alternate service would be inconvenient.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.⁸

Upon preliminary inspection, the petitions appear to raise the following issues of law:

1. Is the Postal Service's proposed alternative of rural carrier service for this community consistent with the "maximum degree of effective and regular postal services" standard of § 404(b)(2)(C)?
2. As part of its consideration of the effect on the community standard of § 404(b)(2)(A), did the Postal Service correctly gauge the size and growth of the community?
3. As part of the effect on the community standard of § 404(b)(2)(A), must the Postal Service consider the level of service given by the employee at the Bill post office as compared to that given by employees at larger offices?
4. As part of the effect on the community standard of § 404(b)(2)(A), must the Postal Service consider that the post office provides employment for someone living in the community?
5. As part of the effect on the community standard of § 404(b)(2)(A), must the Postal Service consider the effect the closing of the Bill post office would have on those doing business within the community?

6. Must the Postal Service consider that it is a 64 mile round trip to the alternative post office as part of its treatment of the "maximum degree of effective and regular postal services" standard of § 404(b)(2)(C)?

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79-1, et al. (May 7, 1979). Conversely, the determination may be found to resolve adequately one or more of the issues described above.

In view of the above, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by § 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the Determination and record pursuant to § 113 of the rules of

¹ On June 11, 1979, appeal letters were received from Ms. Phyllis Steele, Ms. Patricia Lange, Ms. Opal Slawson and Mr. Michael W. Roberts on behalf of Neosho Construction Co., Inc. We are consolidating all these appeal letters into this docket.

² 39 U.S.C. § 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR § 3001.110 et seq.

³ 39 CFR § 3001.111(a).

⁴ 39 CFR § 3001.1.

⁵ 39 U.S.C. § 404(b)(1).

⁶ 39 CFR § 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

⁷ 39 U.S.C. § 101(b).

⁸ 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).

practice (39 CFR § 3001.113), make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on Petitioners by the Service.

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.⁹

The Commission Orders

(A) The letter of June 5, 1979, from Sherry Cline shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the Federal Register.

(C) The Postal Service shall file the administrative record in this case on or before June 26, 1979, pursuant to the Commission's rules of practice [39 CFR § 3001.113(a)].

By the Commission.

David F. Harris,
Secretary.

Appendix

June 22, 1979—Notice and Order of Filing of Appeal

June 26, 1979—Filing of record by Postal Service [see 39 CFR § 3001.113(a)]

July 1, 1979—Last day for filing of petitions to intervene [see 39 CFR § 3001.111(b)]

July 5, 1979—Petitioner's initial brief [see 39 CFR § 3001.115(a)]

July 20, 1979—Postal Service answering brief [see 39 CFR 3001.115(b)]

August 4, 1979—[1] Petitioner's reply brief, if petitioner chooses to file such brief [see 39 CFR § 3001.115(c)]

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

October 18, 1979—Expiration of 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)].

[FR Doc. 79-19990 Filed 6-27-79; 8:45 am]

BILLING CODE 7715-01-M

⁹In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

DEPARTMENT OF STATE

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the thirtieth meeting of the Board for International Food and Agricultural Development (BIFAD) on July 26, 1979.

The purpose of the meeting is to: receive and discuss the progress reports of the Joint Research Committee (JRC) and the Joint Committee for Agricultural Development (JCAD); discuss the status of the recommended Title XII University Strengthening Grants; and to hear the findings and conclusions of the 1979 Country Development Strategy Statement (CDSS) reviews for some 50 missions.

The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m.; and will be held in Room 1107, State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: June 21, 1979.

Erven J. Long,

*A.I.D. Advisory Committee Representative,
Board for International Food and Agricultural
Development.*

[FR Doc. 79-20006 Filed 6-27-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-11]

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 July 18, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: 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 June 22, 1979.

Edward P. Faberman,

*Acting Assistant Chief Counsel, Regulations
and Enforcement Division.*

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19296	Wheeler Flying Service	14 CFR parts 121 and 135	To allow the operation of an F-27, an aircraft capable of carrying more than 30 passengers or more than 7,500 pounds maximum payload capacity, under the rules of Part 135 instead of Part 121.
19297	Wings Airways	14 CFR Sec. 135.243(a)	To allow the operation of a commuter air taxi when the Pilot-in-Command has only a commercial pilot certificate.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—Disposition
19185	United Airlines	14 CFR Secs. 61.39(a)(1) and (b).	To permit certain of their pilots to take a flight check for their Airline Transport Pilot Certificate although there has been a time lapse of more than 24 months since they passed the written examination. <i>Granted 6/15/79.</i>
19294	Kingston Air Service	14 CFR part 61	To permit certain Canadian airmen to obtain U.S.-Airmen Certificates and to operate a leased U.S. registered Cessna 404 aircraft, N-3948C, in commercial operations during a 90-day lease arrangement. <i>Granted 6/15/79.</i>
19172	Delta Airlines, Inc.	14 CFR Sec. 121.291	Requests an amendment to Exemption No. 2753 to allow scheduled operations with L-1011-385-3 aircraft without first conducting a full-seating capacity emergency evacuation/ditching demonstration. Previous emergency/ditching evacuation demonstration conducted with same number of "sliderails" but two less exits. <i>Partial grant 6/10/79.</i>
19149	United States Parachute Association	14 CFR 105.43	To allow foreign nationals to participate in the National Parachuting Championships without complying with the equipment and packing requirements. <i>Granted 6/10/79.</i>

[FR Doc. 79-19957 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; 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 RTCA Executive Committee to be held July 20, 1979, in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) approval of Minutes of Meeting held June 1, 1979; (2) Special Committee Activities Report for May and June 1979; (3) Chairman's Report on RTCA Administration and Activities; (4) Consideration of Establishing New Special Committee; (5) Report of ad hoc Committee on RTCA Financial Posture and Strategic Planning; (6) Approval of Special Committee 140 Report on VHF Air-Ground Technology and Spectrum Utilization; (7) Discussion of Proposed Federal Trade Commission Rule on Standards and its Effect on RTCA Operations; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons

wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on June 20, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79-19977 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Maximum Width of Trucks on the Interstate Highway System; Notice of Interpretation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of interpretation of the maximum width of trucks on the Interstate System.

SUMMARY: Notice is given that the FHWA is interpreting the maximum width provision, which may not be exceeded on the Interstate System pursuant to 23 U.S.C. 127 and which must be enforced by the States pursuant to 23 U.S.C. 141.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT: David C. Oliver, Attorney Advisor, Motor Carrier and Highway Safety Law

Division, Office of the Chief Counsel, 202-426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. All comments should be directed to the above listed person.

SUPPLEMENTARY INFORMATION: A number of inquiries have been received from States, manufacturers and commercial trucking firms on the maximum width provision of 23 U.S.C. 127. Section 127 provides that the maximum width of vehicles using the Interstate System of highways cannot exceed 96 inches, unless a correspondingly higher width was authorized by State law or regulation as of July 1, 1958. The States are required to certify to the Secretary of Transportation on an annual basis that vehicles using the Interstate System are in compliance with 23 U.S.C. 127, and that the State is enforcing these provisions in accordance with 23 U.S.C. 141.

The FHWA has also received allegations that certain truck manufacturers are producing vehicles which exceed the 96 inch limit. A number of manufacturers have been contacted and none produces a vehicle whose basic tractor width exceeds 96 inches. However, all manufacturers contacted do produce vehicles whose side-mounted rear-view mirrors exceed 96 inches. On most Cab-Over-Engine

(COE) models, hand-holds and double-faced turn signals also exceed 96 inches. Manufacturers and users of commercial vehicles have made a practice of exceeding 96 inches for these specific items for many years.

It has come to the attention of the FHWA that almost half of the States officially allow these components to exceed 96 inches. The remaining States either allow the practice unofficially or are not taking measurements to enforce the 96 inch limits, since the mirrors on the vast majority of heavy duty commercial vehicles which are operated in this country exceed 96 inches.

The term vehicle is not defined in section 127, nor does the legislative history add any information on the meaning of width. However, as section 127 shows no intent that devices attached to a vehicle are to be disregarded in measuring width for purposes of sections 127 and 141, the FHWA has operated in the past under an administrative definition of the term vehicle as including not only the main structure of the vehicle, but also all attachments thereto, unless an exception or tolerance was permitted by State law as of July 1, 1956.

The origin of the practice of the States of allowing certain exceptions to the 96 inch limitation appears to be the definition contained in the American Association of State Highway and Transportation Officials' (AASHTO) "Recommended Policy on Maximum Dimensions and Weights of Motor Vehicles to be Operated Over the Highways of the United States."

Width: The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding approved safety devices and tire bulge due to load.

The 96 inch width limitation of section 127 originated in the AASHTO Policy of 1946, which did not contain the definition above. The current definition was added in 1963 and has been the AASHTO recommended practice since that time. The apparent difference between the AASHTO recommended policy and the FHWA administrative interpretation has generated the inquiries and allegations which are the subject of this interpretation.

The FHWA has a limited number of options available to reduce the confusion over this issue. The continued reliance upon an administrative definition requiring absolute compliance with an all-inclusive 96 inch width will place virtually all existing heavy duty commercial vehicles in violation of section 127. New trucks, truck tractors,

cargo bodies, and vans would have to be made more narrow in order to get the mirrors within 96 inches. The costs of this course of action would be prohibitively expensive. Further, future State certifications to the Secretary will have to reflect both legal compliance and enforcement of the 96 inch width. In view of the economic and legal consequences of such a course of action, the administrative interpretation requiring complete inclusivity is no longer valid.

As the AASHTO policy formed the basis of the original 96 inch width requirement, the definition subsequently issued by AASHTO provides an acceptable basis for revising the FHWA policy. While the 96 inch specification of 23 U.S.C. 127 remains the same, the FHWA is adopting the definition of width recommended by AASHTO. In addition to load-induced tire bulge, the only "approved safety devices" permitted to exceed 96 inches are rear-view mirrors, turn signal lamps, and hand-holds for cab entry/egress. This administrative definition will permit the States to certify to compliance with 23 U.S.C. 127 under 23 U.S.C. 141, and no vehicle modifications will be necessary. It will also clarify State responsibilities in measuring vehicles by establishing a realistic and easily understandable vehicle width standard consistent with 23 U.S.C. 127.

Issued on: June 20, 1979.

Karl S. Bowers,

Federal Highway Administrator.

[FR Doc. 79-18649 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[Docket No. RFA 511-79-1]

Guarantee of Obligation; Receipt of Application

Project. Notice is hereby given that Auto-Train Corporation (applicant), 1801 K Street, N.W., Washington, D.C. 20006, has filed an application with the Federal Railroad Administration (FRA) under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, to secure a guarantee from the United States of the payment of the principal balance of, and any interest on, an obligation to rehabilitate equipment. Applicant proposes that the principal amount of the obligation be \$4,526,500.

Applicant proposes to provide FRA with a second lien of \$3.5 million in certain equipment that is the subject of a sale/leaseback agreement. Applicant

further proposes to provide FRA with a first lien on applicant's leasehold interest in 34 bi-level auto carriers and 20 tri-level auto carriers. The value of the security interest offered in these leases is approximately \$1.5 million.

The proceeds of the loan are to be used by applicant to finance the repair and rehabilitation of its fleet, consisting of 15 locomotives, 55 passenger cars and 82 auto carriers. Applicant's passenger cars and auto carriers would have to be designated as equipment by FRA under section 501(2) of the Act in order to permit Federally-guaranteed funds to be expended for their repair and rehabilitation.

Justification for project. Applicant states that the work program described above will restore its equipment to a safe and reliable condition and will permit future maintenance of the equipment under an established maintenance cycle, that the project is necessary to ensure safe and reliable service, and that the project will enable Applicant to meet the public demand for its passenger and automobile common carrier service.

Comments. Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

To the extent permitted by law, the application will be made available for inspection during normal business hours in Room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in part 7 of title 49 of the Code of Federal Regulations.

The comments will be considered by the FRA in evaluating the application. Any commenter who wishes to have FRA acknowledge the receipt of his or her comments should include a self-addressed, stamped post card with the comments. No other acknowledgment of the comments will be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: June 22, 1979.

Comment closing date: On or before July 30, 1979.

Charles Swinburn,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 79-20009 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-06-M

[Docket No. FRA 511-76-1]

Guarantee of Obligations; Receipt of Application

Project. Notice is hereby given that the Missouri-Kansas-Texas Railroad Company ("Applicant"), having its principal business office at 701 Commerce Street, Dallas, Texas 75202, has filed an application which Applicant has titled "Second Amendment to Application" with the Federal Railroad Administration ("FRA") under Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, to secure a commitment by the United States to guarantee obligations and other evidence of indebtedness in the principal amount of \$6,000,000 thereby increasing Applicant's total guaranteed loan from \$16,500,000 to \$22,500,000.

The project, which Applicant has designated "Element IV", is divided into five subparts. Applicant represents the following: Element IV A consists of track rehabilitation, including sledding, from Moran, Kansas to Parsons, Kansas, including sidings at Erie and Kimball involving a total projected cost of \$4,275,000.00. Element IV B consisting of installation of coded track from Paola, Kansas to Parsons, Kansas is calculated to cost \$542,000.00. Element IV C consists of the construction of 700 feet of new track and rehabilitation of two tracks at Parsons, Kansas in order to provide a main line track bypass of the Parsons yard. Sledding of the Parsons yard bypass will be performed under Element IV A. Element IV C will cost approximately \$585,133.00. Element IV D which consists of rehabilitation of one of Applicant's lead tracks, providing a bypass route at its Glen Park yard in Kansas City, Kansas will cost approximately \$429,131.00. Element IV E covers the rehabilitation of Applicant's long track to Paola, Kansas, connecting its main line with that of the Frisco and will cost an estimated \$168,736.00. The rehabilitation work described above as Element IV A extends from Applicant's Mile Post A-95.7, approximately one mile south of Moran, Kansas, to Mile Post A-133.7 at Parsons, Kansas, a distance of 38 miles. The installation of coded track signaling involved in Element IV B will extend from Mile Post

A-43.1 at Paola, Kansas to Mile Post A-134.0 at Parsons, Kansas, a distance of 90.9 miles. The construction and rehabilitation involved in providing a main line bypass track around Applicant's Parsons yard involves 1.76 miles of trackage and will also include installation of .615 miles of 115 lb. rail on Applicant's old passenger main line. Element IV D covering the rehabilitation of one of Applicant's lead tracks for a bypass route at its Glen Park yard in Kansas City, Kansas involves 1.54 miles and 15 turnouts. Element IV E covers the rehabilitation of Applicant's long track at Paola, Kansas from Mile Post A-41.8 to A-43.9, a distance of 1.1 miles.

Justification for Project. The Applicant states that the project is justified by the following benefits to both the shipping public and applicant: (1) the above described track work will permit Applicant to operate its trains more expeditiously and efficiently; (2) congestion will be relieved in Paola and in its Parsons and Kansas City yards; potential for derailments and other accidents will be decreased; and (4) the improved and rehabilitated track will permit applicant to more efficiently transport unit coal trains from Kansas City, Kansas to coal-fired, electric generating plants near Pryor, Oklahoma, to transport unit grain trains and run-through trains to cities and ports in Oklahoma and Texas and to otherwise meet the needs of the shipping public in the area.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than July 30, 1979. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

If the commenter wishes acknowledgment of the Federal Railroad Administration's receipt of the comments, the commenter may include a self-addressed stamped postcard with the comments, which will be returned upon the Federal Railroad Administration's receipt of the comments. The comments will be taken into consideration by the Federal Railroad Administration in evaluating the application. However, no other formal acknowledgment of the comments will be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

Comment closing date: July 30, 1979.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: June 19, 1979.

Charles Swinburn,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 79-20053 Filed 6-27-79; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Public Inspection of Written Determinations; Intention To Disclose

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Intention to Disclose.

SUMMARY: This document provides notice that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions. This document does not meet the criteria for significant regulations set forth in paragraph eight of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

DATES: Persons not responding to any earlier Federal Register notice of intention to disclose who wish to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact the Service by July 13, 1979.

Requests for additional deletions must be submitted by August 2, 1979. A petition in the United States Tax Court must be filed by September 11, 1979. Except for the disputed portion of any document that is the subject of an action brought in the United States Tax Court, the written determinations described in this notice will be made open to public inspection on September 28, 1979.

ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: T:FP:R, Ben Franklin Station, Post Office Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: George E. Freeland of the Rulings Disclosure Branch, Tax Forms and Publications Division, Office of the

Assistant Commissioner, Technical;
202-566-4378 or 202-566-6272.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection certain written determinations issued by the Internal Revenue Service. The written determinations to be made open to public inspection pursuant to this notice have been described in more detail in one of the Federal Register notices of intention to disclose published on February 21, 1978, March 31, 1978, May 3, 1978, May 30, 1978, August 2, 1978, November 9, 1978, January 31, 1979, or on April 5, 1979. This notice applies to written determinations that fall within the description of one of these earlier notices but which were not available for processing for public inspection at an earlier date.

Deletions

Section 6110(c) of the Code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses, and taxpayer identifying numbers, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice pertain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice. These persons may request a copy of their written determinations with proposed deletions indicated. Such requests should be submitted by July 13, 1979. Such requests must indicate the specific name of the party to which the written determination pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional deletions must be submitted by August 2, 1979 and must

include a statement indicating which of the exemptions provided in section 6110(c) of the Code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have the right to file a petition in the United States Tax Court. This petition must be filed by September 11, 1979.

Additional Disclosure

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers, the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

Background File Documents

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received.

Any notice regarding background file documents or requests for additional disclosure and any other correspondence relating to public inspection of written determinations, will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being placed in the National Office Reading Room, Room 1564, Internal Revenue Service Building, 1111 Constitution Avenue, N.W., Washington, D.C. on September 28, 1979. However, the disputed portion of any document that is the subject of an action brought in the United States Tax Court shall not be made available until after a court determination regarding such portion is made.

Effect of Earlier Requests

Persons who contacted the Internal Revenue Service in response to an

earlier notice need not contact the Service again. The Service will automatically respond to any person who inquired in response to an earlier notice if the written determination or determinations about which that person inquired will be made open to public inspection in accordance with this notice. That person will be forwarded a proposed deleted copy of any such written determination, and will have the rights with respect to requesting additional deletions that are described in this notice.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-20100 Filed 6-27-79; 8:45 am]

BILLING CODE 4830-01-M

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decisions Volume
No. 76]

Permanent Authority Applications Decision-Notice

Decided: June 14, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement or protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served

concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in the section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are

consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before July 30, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants or authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Carleton, Joyce, and Jones.

H. G. Homme, Jr.,
Secretary.

MC 60014 (Sub-91F), filed February 28, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel flooring*, and *steel decking*, and (2) *materials and supplies* used in the installation of the commodities named in (1) above, from the facilities of Epic Metals Corporation at or near Lakeland, FL, to points in the United States (except AK and HI). (Hearing site: Jacksonville, FL.)

MC 60014 (Sub-92F), filed February 28, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *reels*, from the facilities of Metco Division, Baker Industries, at or near Hartselle, AL, to those points in the United States in and east of MN, IA, NE, MO, AR, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 60014 (Sub-93F), filed February 28, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *concrete building products*, and (2) *materials and equipment* used in the manufacture and construction of the commodities in (1) above, (except commodities in bulk between the facilities of Concrete Panel Systems, Inc., at Charlotte, NC, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Charlotte, NC.)

MC 60014 (Sub-93F), filed February 28, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural, forestry, and nursery equipment, and implements*, from the facilities of R. A. Whitfield Manufacturing Co., at or near Mableton, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

MC 60014 (Sub-100F), filed February 28, 1979. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cranes and machinery*, and (2) *parts, attachments and accessories* for cranes, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Essex Crane Rental Corporation. (Hearing site: Washington, D.C.)

MC 107295 (Sub-906F), filed February 26, 1979. Applicant: PRE-FAB TRANSIT CO., a corporation, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A)(1) *solar energy heating and cooling systems*, (2) *parts and accessories* used in the operation of the systems in (1) above, and (3) *wood burning heating appliances, irrigation systems, pipe tubing, light poles and light pole accessories*, from the facilities of Valmont Industries, Inc., at or near

Valley, NE, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (B) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (A) above, in the reverse direction. (Hearing site: Omaha, NE.)

MC 113855 (Sub-470F), filed February 16, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. VanOsdel, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of CF & I Steel Corporation at or near Pueblo, CO, to points in CA, AZ, and NV. (Hearing site: Denver, CO.)

MC 116915 (Sub-77F), filed February 28, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate St., Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pollution control towers, cooling towers, pollution control equipment, and cooling equipment*, (2) *parts* for the commodities named in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk, in dump or tank vehicles), between the facilities of Ecodyne at or near Stockbridge, GA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Atlanta, GA.)

MC 119955 (Sub-7F), filed January 24, 1979. Applicant: RUDOLPH LA BRANCHE, P. O. Box 23, 394 North Main St., West Franklin, NH 02325. Representative: Paul R. Rugo, 24th Floor, 28 State St., Boston, MA 02109. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *valves, valve components, tools, and jigs*, (2) *equipment* used in the manufacture of valves, (3) *rough castings, casting sand, and machine parts*, (4) *business papers and records, audit and accounting media, and blueprints*, between the facilities of Watts Regulator Co., at or near (a) Lawrence, MA, (b) Franklin and Portsmouth, NH, (c) Detroit, Livonia, and Adrian, MI, (d) Chicago, IL, (e) Kinsman, OH, (f) Spindale and Charlotte, NC, (g) Atlanta, GA, and (h)

Saddlebrook, NJ, under continuing contract(s) with Watts Regulator Co., of Lawrence, MA. (Hearing site: Concord, NH, or Boston, MA.)

MC 121664 (Sub-61F), filed February 26, 1979. Applicant: HORNADY TRUCK LINE, INC., P. O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, (a) from points in AL, GA, NC, and SC, to Milford, VA, (b) from points in AL, FL, NC, and SC, to Thomson, GA, (c) from points in MS, AL, and LA, to Pine Bluff, AR, and (d) from Milford, VA, Thomson, GA, and Pine Bluff, AR, to points in AL, AR, FL, GA, NC, SC, IN, IL, KY, LA, MD, MI, MO, MS, NJ, NY, OH, TN, VA, WV, and PA. (Hearing site: Birmingham or Montgomery, AL.)

MC 123405 (Sub-67F), filed February 28, 1979. Applicant: FOOD TRANSPORT, INC., Route #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectioneries and cough drops*, from the facilities of Luden's, Inc., at Reading, PA, to points in GA, AL, FL, TN, LA, OK, TX, CO, AZ, CA, WA, OR, and UT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 127705 (Sub-68F), filed November 22, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P. O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P. O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fiberboard containers, pulpboard containers, and container closures*, from the facilities of Sonoco Products Co., at or near (a) Alpha and Dayton, OH, to points in KY, MI, MO, IL, IN, and WI, (b) Henderson, KY, to points in IL, IN, MI, MO, OH, and WI, (c) Chicago, IL, to points in IN, KY, MI, MO, OH, and WI, (d) St. Louis, MO, to points in IL, IN, KY, MI, OH, and WI, and (e) Alpha and Dayton, OH, Henderson, KY, Chicago, IL, and St. Louis, MO, to points in NY, PA, NJ, and MD; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Washington, DC.)

MC 134105 (Sub-40F), filed December 21, 1978, previously published in the FR of February 8, 1979. Applicant: CELERYVALE TRANSPORT, INC., 1318 E. 23rd Street, Chattanooga, TN 37404. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by chain and grocery houses, (except commodities in bulk), between the facilities of Hudson Industries, Inc., at or near Troy and Brundidge, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL.)

Note.—This republication indicates the correct commodity description.

MC 139495 (Sub-408F), filed January 22, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P. O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of Campbell Soup Company, Inc., Pepperidge Farm, Inc., Champion Valley Farms, Inc., Godiva Chocolatier, Inc., Herfy's Corp., Vlasic Foods, Inc., Dixon Canning Corp., Stockmeister Mushroom Farm, Inc., Hanover Trail, Inc., Lexington Gardens, Inc., and Valley Tomato Products, Inc., in DE, MD, NJ, and PA, to points in CT, IN, KY, MA, ME, MI, NH, NY, OH, RI, and VT, restricted to the transportation of traffic originating at the named origins. (Hearing site: Washington, DC.)

MC 141804 (Sub-192F), filed February 26, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P. O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, from City of Industry, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles or San Francisco, CA.)

MC 146415 (Sub-1F), filed February 26, 1979. Applicant: FIRSTLINE TRANSPORTATION, INC., 3435 Wilshire Boulevard, Los Angeles, CA 90010. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting (1) *paper and paper products*, from Valdosta, GA, to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* (except commodities in bulk), used in the manufacture of building, wrapping and sheathing paper in the reverse direction under continuing contract(s) with Firstline Corporation, of Los Angeles, CA. (Hearing site: Los Angeles, CA, or Atlanta, GA.)

MC 146495F, filed February 26, 1979. Applicant: DAILEY OIL, INC., 2201 W. Main Street, Greenfield, IN 46140. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Milwaukee, WI, to those points in IN on and south of IN Hwy 28. (Hearing site: Indianapolis, IN, or Washington, DC.)
[FR Doc. 79-20107 Filed 6-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 9F)]

Atchison, Topeka & Santa Fe Railway Co.—Abandonment Near Cella and Minkler in Fresno County, CA; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decision June 5, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further, that AT&SF shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Atchison, Topeka and Santa Fe Railway Company of a portion of the line of railroad known as the Wahtoke District of the Valley Division, extending from railroad milepost 6.24 near Cella to railroad milepost 8.96 near Minkler, Fresno County, State of CA. A certificate of public convenience and necessity permitting the abandonment was issued to the Atchison, Topeka and Santa Fe Railway Company. Since no

investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective August 13, 1979.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-20108 Filed 6-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 108]

Motor Carrier Temporary Authority Applications

June 19, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "sub" number and quoting the particular portion of authority upon which it relies: Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and

pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 4405 (Sub-607TA), filed May 12, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Leonard L. Bennett (same address as applicant). *Dump bodies*, from Uniontown, Fayette County, PA and points within ten miles thereof, to points in the United States (including AK but excluding HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fruehauf Corporation, 10900 Harper Avenue, Detroit, MI 48232. Send protests to: Connie Stanley, TA, ICC, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 95084 (Sub-139TA), filed May 25, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Wire and wire fencing products, fence and fencing materials*, between the plantsite of Bekaert Steel Wire Corporation at Van Buren, AR, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, PA, SD, VA, WV, WI, and WY for 180 days. Supporting shipper(s): Bekaert Steel Wire Corporation, I-40 & Lee Creek Rd., Van Buren, AR 72956. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 106674 (Sub-393TA), filed June 4, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, US Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same as applicant). *Containers, and container ends, and materials, equipment, and supplies used in the manufacture and distribution of containers and container ends* from Diamond International Corporation, Heekin Can Division at Cincinnati, OH to points in AL, AR, GA, KY, LA, MS and TN for 180 days. Supporting shipper: Diamond International Corporation, Heekin Can

Division, 429 New Street, Cincinnati, OH 45202. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 109324 (Sub-40TA), filed May 4, 1979. Applicant: GARRISON MOTOR FREIGHT, INC., Garrison Place, P.O. Box 1278, Harrison, AR 72601. Representative: Jay C. Miner (same as applicant). *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Memphis, TN and Fort Worth, TX, and points within their respective commercial zones, serving the intermediate points of Little Rock, AR and Dallas, TX, and points within their respective commercial zones: from Memphis over Interstate Highway 40 to junction Interstate Highway 30, then over Interstate Highway 30 to Dallas, TX, then over U.S. Highway 80 to Fort Worth and return over the same route; (2) between Booneville, AR and Fort Worth, TX, and points in their respective commercial zones, serving the intermediate points of Fort Smith, AR and Dallas, TX and points in their respective commercial zones: from Booneville over AR Highway 10 to Greenwood, AR, then over AR Highway 10S to junction U.S. Highway 71, then over U.S. Highway 71 to Fort Smith, AR, then over Interstate Highway 540 to junction Interstate Highway 40, then over Interstate Highway 40 to junction U.S. Highway 69, then over U.S. Highway 69 to junction U.S. Highway 75, then over U.S. Highway 75 to Dallas, TX and then over U.S. Highway 80 to Fort Worth and return over the same route; and (3) between Harrison, AR and Fort Worth, TX, and points in their respective commercial zones, serving the intermediate points of Dallas, TX and points in its commercial zone; from Harrison over U.S. Highway 62 to junction AR Highway 68, then over AR Highway 68 to junction AR Highway 74, then over AR Highway 74 to junction AR Highway 16, then over AR Highway 16 to Fayetteville, AR, then over U.S. Highway 62 to Muskogee, OK, then over U.S. Highway 69 to junction U.S. Highway 75, then over U.S. Highway 75 to Dallas, TX, and then over U.S. Highway 80 to Fort Worth and return over the same route. Restrictions: The operations authorized herein are restricted against providing a through service between Dallas and Fort Worth, TX, and points in their respective commercial zones, on the one hand, and;

on the other, Kansas City and St. Louis, MO, and points within their respective commercial zones. Applicant requests authority to interline at Fort Smith, and Little Rock; AR; Memphis, TN; Tulsa, Oklahoma; City and Muskogee, OK and to tack this authority with authority it presently holds in No. MC 109324 Subs 32 and 34, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 170 shippers. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 113784 (Sub-87TA), filed May 31, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8E 4M1. Representative: Donald Burnett (same address as applicant). *Building materials viz. partition systems and accessories*, between ports of entry at the International Boundary between the United States and Canada located on the Niagara River on the one hand, and on the other the plantsite of National Gypsum Company at Niles, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Gypsum Company, Gold Bond Building Products Div., 2001 Rexford Road, Charlotte, NC 28211. Send protests to: Richard Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 116254 (Sub-270TA), filed June 5, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Mr. Hampton M. Mills (same address as applicant). *Ferric Chloride*, in bulk, in tank vehicles, from New Orleans, LA to Sandersville, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: Mabel E. Holston, T/A, ICC, Suite 1616, 2121 Building, Birmingham, AL 35203.

MC 117815 (Sub-323TA), filed May 30, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Paper products* from the facilities of American Can Co. at Green Bay, WI to Cedar Rapids, Cherokee and Des Moines, IA; Kansas City, Springfield, and St. Louis, MO; and Omaha, NE and to points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can Co., P.O. Box 702, Neenah, WI 54956. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg. Des. Moines, IA 50309.

MC 128555 (Sub-31TA), filed April 23, 1979. Applicant: MEAT DISPATCH, INC., 2103 17th St., East, Palmetto, FL 33561. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier—Irregular route: Oil*, except in bulk in tank vehicles from Martinez, CA, Wood River, IL, New Orleans, LA, and Seward, NJ to points in AR, GA, IL, NC, NJ, NM, NY, OH, OK, PA, SC, TN, TX, VA, and WV restricted to the transportation of traffic originating at or destined to truckstops and warehouse facilities of Truckstops of America under a continuing contract or contracts with Truckstops of America for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Truckstops of America, 5042 Limbar Dr., P.O. Box 11749, Nashville, TN 37211. Send protests to: Donna M. Jones, T/A, ICC, Suite 101, 8410 N.W. 53rd Terr. Miami, FL 33166.

MC 128555 (Sub-32TA), filed April 27, 1979. Applicant: MEAT DISPATCH, INC., 2103 17th St., East, Palmetto, FL 33561. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier—Irregular route: (1) Foodstuffs; (2) materials, supplies and equipment used in the manufacture, production, sale and distribution of foodstuffs*, except in bulk in tank vehicles, (1) from Rochester, NY to points in MI, IL and WI; (2) from Henderson and Owensboro, KY to Rochester, NY, restricted to the transportation of traffic originating at or destined to the facilities of Ragu Foods, Inc. under a continuing contract or contracts with Ragu Foods, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ragu Foods, Inc., 33 Benedict Place, Greenwich, CT 06830. Send protests to: Donna M. Jones, T/A, ICC, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terr. Miami, FL 33166.

MC 133655 (Sub-159TA), filed May 25, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300. Representative: Warren L. Troupe, 2480 E. Commercial Blvd. Fort Lauderdale, FL 33306, Amarillo, TX 79120. *Such commodities* as are distributed by manufacturers of specialty wood products between Charlotte, NC on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA, for 180 days. Supporting shipper(s): Maywood, Inc., P.O. Box 30550, Amarillo, TX 79120. Send protests to: Martha Powell, TA, 9a27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133655 (Sub-160TA), filed May 25, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative Warren L. Troupe, 2480 E. Commercial Blvd. Fort Lauderdale, FL 33308. *Such commodities as are dealt in by discount and variety stores (except commodities in bulk) between Augusta, GA on the one hand, and, on the other, points in AL, LA, and TX, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): S. H. Kress and Company, 114 Fifth Avenue, New York, NY 10011. Send protests to: Martha Powell, TA, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.*

MC 136315 (Sub-75TA), filed May 25, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Rt. 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Wallboard, gypsum wallboard and accessories used in the installation thereof from the facilities of Temple Industries, Inc. at or near West Memphis, AR to points in AL, FL, GA, IL, IN, KY, LA, MS, MO, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Temple Industries, Inc., 540 E. Barton, West Memphis, AR 72301. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.*

MC 138875 (Sub-198TA), filed June 5, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). *Brick, except commodities in bulk, from Denver, Boulder and Pueblo, CO to Salt Lake County, UT and points in WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Masonry Center, Inc., P.O. Box 7825, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.*

MC 138884 (Sub-6TA), filed June 6, 1979. Applicant: CONDOR CORPORATION, P.O. Box 630, Dixfield, ME 04224. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. *Contract: Irregular: (1) Glued furniture panels uncrated in truck load quantities from Bethel, ME to points in CT, MA and PA. Restricted to transportation under bilateral contract with Bethel Furniture Stock Inc., Bethel, ME; (2) Glued furniture panels uncrated from Norway and South Paris, ME to points in AR, CT, GA, MD, MA, NH, NJ, NY, NC, PA, TN and VT. Restricted to transportation under bilateral contract with Wilner Wood Products Co., Norway, ME, for 180 days. An*

underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Bethel Furniture Stock, Inc., Bethel, ME 04217, (2) Wilner Wood Products Co., Norway, ME 04268. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 141804 (Sub-224TA), filed May 15, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. *Carpet or rug cushions, cushioning or lining, sponge rubber in boxes or wrapped rolls, from Columbus, MS to points in CA, WA, OR, AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The General Tire & Rubber Co., 18895 Arenth Avenue, City of Industry, CA 91749. Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.*

MC 142715 (Sub-53TA), filed May 8, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). *Fresh and frozen meat and meat products (except hides and commodities in bulk) from the facilities utilized by Edgar Packing Co., Inc., Edgar, WI to points New York, NY, restricted to traffic originating at Edgar, WI and destined to New York, NY, for 180 days. Supporting shipper(s): Edgar Packing Co., Inc., P.O. Box 195, Edgar, WI 54426. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 142715 (Sub-54TA), filed May 10, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). *Fresh and frozen meat (except hides and commodities in bulk), from Long Prairie; MN to points in IL, IN, MI, OH, PA, NY, NJ, MD, DC, DE, CT, RI and MA, restricted to traffic originating at Long Prairie, MN and destined to points in the named states, for 180 days. Supporting shipper(s): Long Prairie Packing Co., Long Prairie, MN. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 143445 (Sub-3TA), filed May 31, 1979. Applicant: MMAR TRANSPORTATION, INC., 128 Pennsylvania Street, Kearny, NJ 07032. Representative: Steven L. Weiman, Esquire, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760. *General commodities (except Classes A and B Explosives, commodities of unusual value, commodities in bulk, and those*

requiring special equipment and household goods as defined by the Commission) moving on bills of lading of shipper associations as defined in Section 10562 (3) of the Act, including those having a prior or subsequent movement by rail. Between New York, NY, Jersey City, NJ, Boston, MA and Philadelphia, PA, on the one hand, and, on the other, Alexandria, VA, Los Angeles, Vernon and Oakland, CA, Phoenix, Tucson, and Nogales, AZ and Albuquerque, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LAWI/CSA Consolidators, Inc., 805 North Boulevard, Glendale, CA 91203. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144085 (Sub-1TA), filed May 17, 1979. Applicant: WALKER HAULING COMPANY, INC., P.O. Box, Route 2, Milan, GA 31060. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30328. *Roofing and roofing materials, from the facilities of Tamko Asphalt Products, Inc., located at or near Tuscaloosa, AL, to all points in FL, GA, NC, SC, TN, KY, WV, VA, IN, OH, and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tamko Asphalt Products, Inc., P.O. Box 1404, Hoplin, MO 64801. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.*

MC 145974 (Sub-3TA), filed May 22, 1979. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier: irregular routes: Lumber and lumber products, (1) from points in CA, ID, MT, OR and WA to points in MN, ND (except Bismarck and Minot), and SD, and (2) from the facilities of Canton Redwood Yard at Minneapolis, MN to points in ND and SD, under contract with Canton Redwood Yard, Canton Redwood Sales, and Canton Lumber Sales, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canton Lumber Sales, Canton Redwood Sales, and Canton Redwood Yard, 221 West 78th Street, Minneapolis, MN 55426. Send protests to: H.E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.*

MC 146995 (Sub-1TA), filed May 4, 1979. Applicant: WINEBRENNER TRANSFER, INC., 316 Woodhaven Drive, Hagerstown, MD 21740. Representative: Edward Button, 1329 Pennsylvania Av., P.O. Box 1417,

Hagerstown, MD 21740. (1) *Finished steel bars* from Cumberland, MD and its commercial zone to points in PA; (2) *Salt, in bags*, from points in Allegheny, Beaver, Armstrong, Butler and Indiana Counties, PA to points in MD and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. Johnson Corp., 37 Henderson Ave., P.O. Box 1555, Cumberland, MD 21502. Cumberland Steel Co., 101 Winston St., Cumberland, MD 21502. Send protests to: I.C.C. 101 N. 7th St., Rm. 620, Philadelphia., PA 19106.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20110 Filed 6-27-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 36-A]

Rerouting Traffic Under Service Order No. 1344

To: Canadian National Railways. Upon further consideration of I.C.C. Order No. 36, and good cause appearing therefor:

It is ordered, I.C.C. Order No. 36 is vacated.

This order shall become effective June 12, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 12, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-20111 Filed 6-27-79; 8:45 am]

BILLING CODE 7035-01-M

[Sixty-Fourth Revised Exemption No. 90]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

June 25, 1979.

To All Railroads:

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points

remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b):

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR

Bath and Hammondsport Railroad Company
Reporting Marks: BHF

Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT

City of Prineville
Reporting Marks: COP

*Columbus and Greenville Railroad Company
Reporting Marks: CAGY

Duluth, Missabe and Iron Range Railroad Company
Reporting Marks: DMIR

East Camden & Highland Railroad Company
Reporting Marks: EACH

Genesee and Wyoming Railway Company
Reporting Marks: GNWR

Greenville and Northern Railway Company
Reporting Marks: GRN

The Hutchinson and Northern Railway Company
Reporting Marks: HN

Indiana Eastern Railroad and Transportation, Inc. d.b.a. The Hoosier Connection
Reporting Marks: HOSC

Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI

Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC

Louisiana Midland Railway Company
Reporting Marks: LOAM

Louisville and Wadley Railway Company
Reporting Marks: LW

Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC

Manufacturers Railway Company
Reporting Marks: MRS

Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ

Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT-BKTY

New Orleans Public Belt Railroad
Reporting Marks: NOPB

*New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW

*Oregon & Northwestern Railroad Co.
Reporting Marks: ONW

Pearl River Valley Railroad Company
Reporting Marks: PRV

Peninsula Terminal Company
Reporting Marks: PT

Providence and Worcester Company

Reporting Marks: PW

Raritan River Rail Road Company

Reporting Marks: RR

Sacramento Northern Railway

Reporting Marks: SN

St. Lawrence Railroad

Reporting Marks: NSL

Savannah State Docks Railroad Company

Reporting Marks: SSDK

Sierra Railroad Company

Reporting Marks: SERA

Terminal Railway, Alabama State Docks

Reporting Marks: TASD

The Texas Mexican Railway Company

Reporting Marks: TM

Tidewater Southern Railway Company

Reporting Marks: TS

Toledo, Peoria & Western Railroad Company

Reporting Marks: TPWF

Vermont Railway, Inc.

Reporting Marks: VTR

WCTU Railway Company

Reporting Marks: WCTR

Youngstown & Southern Railway Company

Reporting Marks: YS

Yreka Western Railroad Company

Reporting Marks: YW

Effective June 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., June 12 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-20112 Filed 6-27-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 126

Thursday, June 28, 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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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:45 a.m., June 29, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Enforcement matters—reparations.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1276-79 Filed 6-28-79; 3:41 pm]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m. on Monday, July 2, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550-17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers:

The New Farmers National Bank of Glasgow, Glasgow, Ky., and The Peoples Bank, Cave City, Ky.

The Central Trust Company, National Association, Cincinnati, Ohio, and The First National Bank of Gallipolis, Gallipolis, Ohio.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif.

Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

White and Steele, Denver, Colo., in connection with the liquidation of Bank of Woodmoor, Woodmoor (P.O. Monument), Colo.

Sullivan & Worcester, Boston, Mass., in connection with the receivership of Surety Bank and Trust Company, Wakefield, Mass.

Ira L. Hyams, P.C., Jericho, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Squire, Sanders & Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Hansell, Post, Brandon & Dorsey, Atlanta, Georgia, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Miller & Martin, Chattanooga, Tenn., in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Sutherland, Asbill & Brennan, Atlanta, Ga., in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Meredith, Donnell & Edmonds, Corpus Christi, Tex., in connection with the receivership of Citizens State Bank, Carrizo Springs, Tex.

Fulbright & Jaworski, Houston, Tex., in connection with the receivership of Franklin Bank, Houston, Tex.

Fulbright & Jaworski, Houston, Tex., in connection with the liquidation of Northeast Bank of Houston, Houston, Tex.

Meredith, Donnell & Edmonds, Corpus Christi, Tex., in connection with the liquidation of Northeast Bank of Houston, Houston, Tex.

Gibbs, Roper, Loots & Williams, Milwaukee, Wis., in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wis.

Memorandum and resolution proposing the withdrawal from consideration of a proposed new Part 340 of the Corporation's rules and regulations, which would have been entitled "Offering Circular Requirements for Public Issuance of Bank Securities," and the issuance of a Statement of Policy regarding the use of offering circulars in connection with public distribution bank securities.

Memorandum proposing the appointment of an agent for service of process in the State of Maine.

Reports of committees and officers:
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various

Regional Directors pursuant to authority delegated by the Board of Directors.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Hannah R. Gardner, Assistant Secretary (202) 389-4425.

[S.1280-79 Filed 6-20-79; 2:10 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m. on Monday, July 2, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550-17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance: First Commercial Bank, a proposed new bank to be located at 500 J Street, Sacramento, Calif., for Federal deposit insurance.

Plaza Bank of Commerce, a proposed new bank to be located at 104 Park Center Plaza, San Jose, Calif., for Federal deposit insurance.

Putnam County State Bank, a proposed new bank to be located at 1522 Main Street, Unionville, Mo., for Federal deposit insurance.

Empire State Bank, a proposed new bank to be located at 123 East 200 South, Salt Lake City, Utah, for Federal deposit insurance.

Bank of Casper, a proposed new bank to be located at the intersection of Outer Drive and Poplar Street, Casper, Wyo., for Federal deposit insurance.

Application for consent to relocate main office:

North Milwaukee State Bank, Milwaukee, Wis., for consent to relocate its main office from 2741 West Fond du Lac Avenue to 5630 West Fond du Lac Avenue, within Milwaukee, Wis.

Application for consent to issue subordinated capital notes as an addition to capital and for advance consent to their retirement at maturity:

Douglas County Bank & Trust Co., Omaha, Nebr.

Notice of acquisition of control:

Deposit Bank of Pleasureville, Pleasureville, Ky.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No., 43,961-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,963-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,964-L--The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Case No. 43,965-L--Banco Credito y Ahorro Ponceno, Ponce, P.R.

Memorandum re: Eatontown National Bank, Eatontown, N.J.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with liquidation activities:

Case, Lane & Mittendorf, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c) (6)).

CONTACT PERSON FOR MORE INFORMATION: Mrs. Hannah R. Gardiner, Assistant Secretary (202) 389-4425.

[S-1281-79 Filed 6-26-79; 2:10 pm]

BILLING CODE 6714-01-M

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 755-1100.

June 25, 1979.

[S-1278-79 Filed 6-26-79; 10:31 am]

BILLING CODE 8010-01-M

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SECURITIES AND EXCHANGE COMMISSION.
"FEDERAL REGISTER" CITATION OF
PREVIOUS ANNOUNCEMENT: [44 FR 36135
June 20, 1970].

STATUS: Open Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, June 18, 1979.

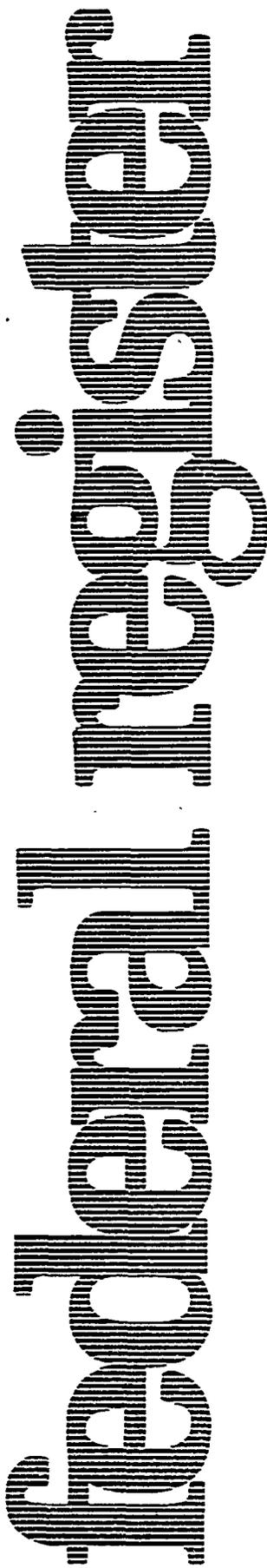
CHANGES IN THE MEETING: Deletion.

The following item will not be considered at an open meeting scheduled for Tuesday, June 26, 1979 at 10:00 a.m.:

Consideration of proposed amendments to Rule 402(a) under the Securities Act of 1933 and Rule 12b-11(a) under the Securities Exchange Act of 1934 which would increase the number of complete copies of registration statements under the Securities Act and other reports and filings under the Securities Exchange Act, including exhibits, from three to four. For further information, please contact Mary A. Binno at (202) 376-8090.

Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in commission priorities require alterations in the



Thursday
June 28, 1979

Part II

**Department of the
Interior**

National Park Service

**Alaska National Monuments; General
Management Regulations**

DEPARTMENT OF THE INTERIOR**National Park Service****[36 CFR Part 13]****Alaska National Monuments; General Management Regulations**

AGENCY: National Park Service.

ACTION: Proposed Rule.

SUMMARY: On December 1, 1978, President Carter signed proclamations establishing fifteen new and enlarging two existing national monuments in Alaska. The National Park Service currently administers thirteen of these new monument areas under interim regulations promulgated on December 26, 1978, which relax or otherwise modify, for the special requirements of the new Alaska National Monuments, various provisions of the "general regulations" otherwise applicable to areas within the National Park System.

A Notice of Intent to Propose Rulemaking was published on February 28, 1979. This notice requested views and comments on the permanent regulations for the new Alaska National Monuments. The National Park Service has reviewed the comments and has drafted these proposed rules.

DATE: Comments must be received on or before September 26, 1979.

ADDRESS: Send written comments to: Alaska Area Director, 540 West 5th Avenue, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Cook, Alaska Area Director, 540 West 5th Avenue, Anchorage, Alaska 99501, Telephone: (907) 271-4196.

SUPPLEMENTARY INFORMATION:**Background**

On December 1, 1978, President Carter signed public proclamations (43 FR 57009) establishing fifteen new national monuments and an addition to each of two existing monuments in Alaska. The new national monuments were established pursuant to section 2 of the Antiquities Act of 1906 (34 Stat. 225; 16 U.S.C. 431). The proclamations state that fifteen of these new national monuments are to be administered by the Secretary of the Interior through the issuance of appropriate regulations. The Secretary delegated to the Director of the National Park Service administrative and regulatory authority over thirteen of these new national monument areas, namely, Aniakchak National Monument, Bering Land Bridge National Monument, Cape Krusenstern National Monument, Denali National Monument, Gates of the

Arctic National Monument, 1978 Enlargement of Glacier Bay National Monument, 1978 Enlargement of Katmai National Monument, Kenai Fjords National Monument, Kobuk Valley National Monument, Lake Clark National Monument, Noatak National Monument, Wrangell-St. Elias National Monument and Yukon-Charley National Monument. This delegation added these thirteen new national monument areas to the National Park System. Previously, the Alaska National Monument lands had been managed by the Department of the Interior through the Bureau of Land Management.

Lands administered by the National Park Service are subject to the relevant provisions of Title 16 of the United States Code and Title 36 of the Code of Federal Regulations. The regulations contained in Chapter One of Title 36 of the Code of Federal Regulations prescribe conditions for the proper use, management, and protection of the National Park System. The "general regulations" contained in Parts 1 through 6 and 8 through 10 of Chapter One apply to the federally owned or controlled lands within the Alaska National Monuments by virtue of their becoming part of the National Park System. Certain of these general regulations are inconsistent with the requirements of the Presidential proclamations concerning subsistence activities by local rural residents such as hunting, trapping, fishing, and wood gathering. In addition, certain general regulations appear inappropriate for the special transportation needs of persons using or traversing monument lands. Therefore, to provide express permission for subsistence uses and general guidance for other acceptable uses, the National Park Service promulgated interim regulations on December 26, 1978 (43 FR 60252) to relax or otherwise modify the application of the general regulations to the Alaska National Monuments.

Public Participation

The National Park Service published an Advanced Notice of Proposed Rulemaking on February 28, 1979 (44 FR 11242). This notice identified the subject matter of the anticipated rulemaking and posed questions for public consideration. The public comment period on the Notice of Intent began February 28, 1979 and closed on April 6, 1979, after it was extended one week due to difficulties encountered in transmitting copies of the Notice of Intent to Alaska.

The National Park Service received a total of 1,979 letters of which 1,731 were

form letters sponsored by the Alaska Outdoor Association.

Organized groups or associations submitted 27 letters. The following represents a partial list of the types of groups and organizations that responded:

Alaska Alpine Club.
Alaska Center for the Environment.
Alaskans Unite.
Chugach Native Association.
Friends of the Earth.
Fur Takers of America.
Interior Alaska Trapper Association.
International Snowmobile Industry Association.
National Rifle Association.
The Wilderness Society.
Vermont Trappers Association.

The list is not intended to be exhaustive; rather it illustrates a cross section of the interest shown by organizations.

State and local government, including the Governor's office for the State of Alaska, Bristol Bay Borough, the Alaska Department of Public Safety and the Wyoming Department of Game and Fish submitted 5 comments. Private individuals submitted a total of 203 letters. Native Corporations submitted 5 letters. A total of 48 letters were not relevant to the rulemaking process or contained no substantive comments.

In the Notice of Intent, the National Park Service requested comments on the subject matter and scope of the permanent regulations. All letters were received and several suggestions have been incorporated in the proposed regulations. Significant or noteworthy comments will be addressed in the "Analysis of Comments" or "Section by Section Analysis."

Analysis of Comments

The majority of the public comments received either indicated a preference for a particular type of use on monument lands or recommended that public activities existing within the monuments prior to establishment should be allowed to continue. Generally, these comments were limited to a general statement of support or opposition for a particular land management issue. A few of the public comments, however, were more detailed and provided either recommended regulatory language or a substantive analysis of the factors supporting a preferred approach. The following is a brief overview of some of the comments received by the National Park Service. The issues are discussed in the order in which they were presented in the Notice of Intent.

1. *Aircraft:* Most of the comments concerning the use of aircraft

recommended that it be allowed to continue within the Alaska National Monuments. These comments stressed the lack of transportation alternatives in rural Alaska and the limited impacts that traditional airplane use has had on the environment of the new monuments. Representative of these comments, the Wilderness Society noted that airplanes are a primary and traditional means of access in Alaska. While recommending that such use and access be allowed to continue within the Alaska National Monuments, the Society nevertheless urged the National Park Service to retain discretionary authority to regulate, and in some situations prohibit, airplane use when necessary to protect the values for which the monuments were established. Five commentors recommended that aircraft use be permitted only in designated areas or generally prohibited. The Service believes the recommendations of the Wilderness Society and those received from many private individuals strike a reasonable balance between continued airplane use and resource protection. Therefore, the Service is proposing to leave the Alaska National Monuments open to airplane use, except for areas specifically closed or otherwise restricted for reasons of resource protection or other management considerations as set forth in Section 13.11.

As a part of this rulemaking process the National Park Service invites suggestions as to specific areas that should be permanently closed to aircraft use.

2. Unattended and Abandoned Property: The National Park Service received numerous comments concerning unattended property. Most of the comments stressed the fact that food and equipment caches were necessary to support both recreational and subsistence uses. Three comments stated that food and equipment caches should not be permitted on monument lands or recommended that existing food and equipment caches be removed. Several comments expressed concern that the indiscriminate location of personal property or food caches might result in junk piles. Representative of this concern is the following comment from a citizens group in Kotzebue:

"In bear country, food and equipment transported into a monument should be hauled out. . . . Visual or aesthetic values would be adversely affected if existing regulations are relaxed. Undoubtedly, preferred cache sites would be close to major travel or user zones."

The National Park Service is equally concerned that food and equipment

caches and other unattended personal property not be located or maintained in such a manner as to constitute a nuisance, attract animals or impair the esthetic values of the monument. However, in view of the size and remote nature of the Alaska National Monuments, the Service is proposing regulations that would accommodate subsistence and recreational users who find it necessary to leave personal property unattended for reasonable periods of time. Therefore, in order to provide for reasonable use of monument lands while at the same time providing protection of monument values, the Service is proposing that personal property may be left unattended for up to nine months unless relaxed or restricted as set forth in Section 13.21.

The National Park Service received numerous comment suggesting that the removal of downed aircraft not be required. However, many other comments received recommended that owners be required to remove downed aircraft. A third group suggested that the Federal government should remove all downed aircraft. Most comments indicated that the majority of owners and insurance companies would prefer to salvage downed aircraft when economically and logistically feasible. The National Park Service believes that downed aircraft should be subject to the same regulations that currently prohibit the abandonment of any other property (36 CFR 2.1) and is proposing regulations that would require the removal of downed aircraft by the owners in accordance with a permit issued by the superintendent. Any less stringent requirements would result in the long-term and predictable degradation of monument values. While the removal of downed aircraft is believed to be in the best interest of the public, the Service recognizes that, in some instances, the removal of downed aircraft might present an unacceptable risk to human life or is otherwise impracticable or impossible. Under these conditions, the Superintendent would be authorized to waive the requirements for removal.

This issue was presented in the Notice of Intent in the abandoned property section. In the interest of simplicity, the proposed regulations governing the removal of downed aircraft are located in Section 13.11 which governs other aspects of aircraft operation.

3. Firearms, traps and nets: Almost all of the respondents advocated the carrying of firearms for reasons of personal safety. The specific concern expressed in most of the comments was the need for protection against bears. The National Park Service recognizes

that this hazard exists in certain locations and that firearms have been traditionally carried in the rural areas of Alaska for personal protection. The Service is, therefore, proposing that firearms may be carried for personal protection except at those times and in those areas where the superintendent closes or restricts the carrying of firearms for reasons of public safety, resource protection or other management considerations as set forth in Section 13.15.

Several comments advocated the carrying of traps and nets. Since sport hunting and trapping will not be permitted in the Alaska National Monuments, the carrying of nets and traps would not be permitted. However, in order to provide transient relief for persons crossing monument lands, the possession of nets, traps and weapons would be permitted within or upon a device used for transportation provided that such implements were cased or otherwise packed so as to prevent their ready use while in the monument area.

The regulations governing weapons, traps and nets will be discussed in the "Section by Section Analysis." However, it should be noted that the proposed regulations are intended to control the carrying of weapons, traps and nets by recreational users. Local rural residents authorized to engage in subsistence activities and persons authorized by permit to engage in commercial fishing operations are appropriately exempted.

As a part of this rulemaking process the National Park Service invites suggestions as to specific areas or times that should be closed to the carrying of firearms by recreational users.

4. Illegal Cabins: The majority of the public comments concerning illegal cabins recommended that the National Park Service provide for their temporary or limited occupancy. Several commentors advocated the removal of illegal cabins. The latter stated that persons in trespass, who violated the law, are being rewarded while the vast majority of Alaskans are being penalized for complying with the public land orders.

There appears to be some misunderstanding as to the status of cabins on Federal lands. The builders or occupants of cabins or other structures located on unpatented Federal lands have no legal status to occupy or maintain these structures. Most lands within the new Alaska National Monuments were withdrawn from public entry by September 19, 1972. These withdrawals were well publicized and the Bureau of Land Management

notified many cabin occupants of their trespass status. On March 25, 1974, all of the lands currently within the Alaska National Monuments were withdrawn from public entry.

The public comments suggested a broad range of remedies, from that of immediate eviction to phasing out, leasing or allowing the occupants to remain under certain conditions. The National Park Service believes that prior to 1974 the public land orders, withdrawing various Federal lands from entry or settlement, were not clearly understood by the general public. Many people assumed that various tracts of Federal land were still available for entry and settlement. In view of the confusion that existed during the period 1968 to 1974 concerning the status of public land, the Service believes that a phase-out procedure provides the most equitable solution.

The Service proposes to establish a permit system for the use and occupancy of cabins or other structures located on Federal lands. This permit system would establish two different categories of occupants. The first category consists of those persons who built or occupied cabins or other structures on Federal lands prior to March 25, 1974. The second category consists of those persons who built or occupied cabins or other structures between March 25, 1974 and December 1, 1978. These two categories of occupants would be entitled to different terms and conditions of use as provided in § 13.12. The builders or occupants of cabins or other structures, the construction or occupancy of which started after December 1, 1978, the date of the Presidential proclamations, would not be afforded any use and occupancy privileges.

5. *Firewood*: All of the public comments received advocated the use of dead wood by local rural residents. Many of the respondents indicated that dead wood on the ground in Alaska is not always suitable for use as fuel. An important distinction should be made between the use of dead wood within the monument for recreational purposes and the cutting and transporting of firewood for use outside of the Alaska National Monuments. The National Park Service is proposing that dead trees, standing or downed, be available for use as firewood while within the monuments. The cutting and transporting of firewood for use outside of the Alaska National Monuments would be prohibited, except that local rural residents who are authorized to engage in subsistence uses would be authorized to cut and transport firewood

and other plant materials in accordance with § 13.49 of this Part.

6. *Pets*: The majority of the comments concerning pets stressed the importance of dog sled teams as a traditional means of transportation in rural Alaska. The National Park Service recognizes the value of dog teams in Alaska and encourages their use. Current regulations require that pets be under physical control at all times. The Service believes that dog teams in harness meet this requirement. Existing pet regulations also provide that the Superintendent may designate areas in which pets are not permitted. This restriction could be implemented if the Superintendent determined that it was necessary to provide for environmental or resource protection, research activities, protection of historic or scientific interests, the protection of endangered or threatened species and their habitat or public health and safety. The Service believes the existing regulation provides sufficient latitude to protect monument values and at the same time accommodate the traditional use of sled dogs. Therefore, no modification of the existing general regulation is proposed.

7. *Subsistence*: The issue of subsistence was perhaps the most divisive of all the issues submitted for comment. The Service received 1,731 form letters, sponsored by the Alaska Outdoor Association, which opposed any subsistence program that does not allow all Alaskans to share equally in the fish and game resources of the State. Most individual comments from urban areas in Alaska favored a subsistence program under State control; on the other hand, most individual comments from rural Alaska favored Federal control. Comments from the State of Alaska and an Alaskan trappers association urged the Service not to develop a separate Federal program but rather to leave the responsibility to the State. In general, the environmental organizations recommended a hybrid State/Federal program, most commonly on the model of the current legislative proposals. Such a hybrid program would authorize the State to regulate subsistence activities in accordance with certain Federal guidelines and subject to Federal monitoring. If the State were unable to develop or maintain an adequate program, however, the Service would have to implement a Federal program which accorded local rural residents in the new monument areas the highest priority consumptive use of the wild, renewable resources in the monuments.

The Alaska Federation of Natives ("AFN") supported a similar program. Briefly, the AFN recommended that the Department make its proposed regulatory program consistent with its "d-2" legislative position on subsistence. The AFN urged effective Federal oversight of any State subsistence program and extensive local participation in the administration of any subsistence program. The AFN submitted draft regulatory language based upon a selectively edited version of the current legislative proposals.

With respect to the use of aircraft by local rural residents, the public was at a disadvantage in commenting on this issue raised by the Notice of Intent because the Service had not, at that time, proposed a definition of "local rural resident." As has already been discussed, most commentators recommended that the general, so-called "traditional," use of aircraft continue in monument areas. The AFN suggested that, if the Service decided to continue the prohibition of aircraft use for subsistence purposes mandated by the interim regulations, special use permits should be available on a case-by-case basis. Most comments from urban Alaska and occasional comments from rural Alaska supported use of aircraft for "traditional" purposes. Several comments from rural Alaska, however, opposed it, as in the following:

[W]e support the closure of any type of aircraft hunting within the Monuments. Each Fall when the [various] hunting seasons open, the upper Noatak River areas are a circus. There are airplanes on every landable sand bar, lake, and dry stream bed * * * For the subsistence hunter, it is hard times. The airplanes move the moose, bear, and caribou into the back country, leaving very little on the River for the subsistence hunter to hunt * * * If one can afford the cost of an airplane and pay for its use, then *subsistence hunting* would surely not apply to his lifestyle.

With respect to subsistence trapping, most commentators supported its inclusion in the definition of subsistence uses. Again, the public was at some disadvantage in not knowing the proposed definition of the "local rural residents" who would be the only persons allowed to engage in subsistence trapping in the new monuments. The AFN recommended that the Service regulate trapping by village residents in accordance with a permit system based on local residency and not on income. An individual from the "bush" explained the need to allow subsistence trapping as follows:

As presently defined "subsistence" trapping does not permit the sale of fur. This is not realistic. Sale of approximately \$3,000

worth of fur annually is our only cash income. We need this money to buy food (wheat, honey, powdered milk, etc.), gasoline (100 gallons a year for the outboard; we do not use a chainsaw), kerosene (25 gallons a year for lamps), clothing, and a host of small things from canning lids to gun powder. Nowhere in the Alaska bush today does anyone live without some items purchased from the "outside," and trapping is often the only way to earn the necessary cash.

The subsistence regulations which the Service is proposing today create a hybrid State/Federal structure as suggested by the comments from the major environmental organizations, the AFN, and several other commentators. The program is based upon provisions in various legislative proposals. The legislative proposals concerning subsistence have varied over time. In the last two years, many modifications have been made in the subsistence titles of competing "d-2" bills, though no one bill contained language on subsistence that satisfied every concern of the Administration.

Thus, while the subsistence title of the Dingell-Breaux bill reported out of the Merchant Marine and Fisheries Committee contained many provisions that were deemed desirable, the overall thrust of the remainder of the bill was unacceptable to the Department and was not supported by the Administration. Conversely, while the version of HR-39 adopted by the House was preferred by the Administration, its subsistence title nevertheless contained various provisions which needed improvement or modification. As a result, while using the various legislative proposals as the foundation of its regulatory proposal, the Service has not adopted the entire subsistence provision of any one of the legislative proposals. Rather, the Service has selected and combined the features of various "d-2" bills which it believes best accommodate the management needs of the new Alaska National Monuments. The Service nevertheless believes that its regulatory proposal is within the spirit of the legislative negotiations on the subsistence issue.

The regulations proposed today are limited in scope to the thirteen new monument areas. Consequently, while acknowledging the value of a unified subsistence program for all public lands in Alaska, the Service must limit its proposal in this rulemaking to the new monument areas.

As will be explained in the Section by Section Analysis, sport hunting is prohibited in the new Alaska National Monuments. As a result, the Service is proposing subsistence regulations that

identify "local rural residents" and thus distinguish them from sport hunters. As proposed, local rural residents either live in a designated "resident zone" or hold a "subsistence permit." As most comments suggested, the Service is proposing a definition of "subsistence uses" that allows for customary subsistence trapping (without permit), i.e., limited involvement in the cash economy through the exchange of furs. The Service is also proposing to extend the interim regulations' general ban on aircraft for subsistence purposes, leaving a limited opportunity for exception. As suggested by several comments and explained in the Section by Section Analysis, the Service has determined that most local rural residents who are truly dependent on the resources do not, and could not afford to, use aircraft for subsistence purposes. The aircraft ban, therefore, does not hurt the true subsistence person but does help the Service in enforcing the prohibition on sport hunting.

8. Hunting and Trapping: Although the issues of hunting and trapping were not presented in the Notice of Intent, numerous comments concerning these activities were received. Most of these comments advocated hunting and trapping within the Alaska National Monuments. Hunting and trapping are prohibited within units of the National Park System except as provided by law. Under existing law, the Service has no authority to allow sport hunting or commercial trapping within the new Alaska National Monuments. The Presidential proclamations establishing the new Alaska National Monuments recognize subsistence hunting and trapping as a value to be protected. Sport hunting and trapping were not accorded the same status.

9. Mining: The issue of mining was presented to solicit comments on the unique problems encountered in Alaska by the mining industry. Most of the comments stated an opinion as to whether or not performance bonds should be required, but presented neither alternatives nor substantive analyses of the issue. Many of the comments favored modification of the regulations in order to insure that the interests of the small mining operations are protected. The National Park Service is not proposing modification of the existing mining regulations at this time. The Service has published two amendments to the Mining Regulations in view of the unique circumstances in Alaska. See 44 FR 20426 (Mining claims, unpatented; recordation; 44 FR 11068 (Alaska national monuments; mining

operation plan; submittal of supplemental information). Any modifications proposed by the Service would be the subject of a separate notice of rulemaking.

10. Other issues: Many of the respondents to the Notice of Intent advocated the continuation of traditional methods and means of access to or across monument lands. These concerns for access were generally associated with particular needs such as subsistence, mining or access to private or State owned lands. Access and the various means of transportation are discussed separately in the Section by Section Analysis of the proposed regulations.

Section by Section Analysis

The proposed regulations set forth herein would apply to all persons using, entering or visiting within the boundaries of the Alaska National Monuments. These proposed regulations would supplement the "general regulations" of Parts 1 through 6 and 8 through 11 of Title 36 of the Code of Federal Regulations. These "general regulations" are applicable except as would be modified by these proposed regulations.

The regulations are divided into three parts. Subpart A, Public Use and Recreation, contains the proposed regulations that would govern activities such as the use of aircraft, snowmobiles, and motorboats, carrying of weapons, camping, cabin occupancy and other activities related to access or general public use and recreation. These regulations would apply to all of the Alaska National Monuments and would relax or make more stringent the provisions of the general regulations found in 36 CFR, Parts 1 through 6.

Subpart B contains proposed regulations that would govern subsistence activities within the Alaska National Monuments. These regulations would apply to all of the Alaska National Monuments, except Kenai Fjords National Monument, and would relax or make more stringent the provisions of the general regulations found in 36 CFR, Parts 1 through 6 or Subpart A of this Part.

Subpart C contains proposed regulations for individual national monuments. These regulations would apply to a specific national monument and may relax or make more stringent the provisions of the general regulations found in 36 CFR, Parts 1 through 6 or Subpart A or B of this Part.

The National Park Service has long recognized the existence of certain common problems arising from

unregulated visitor use of park areas. The regulations necessary to address these problems have been incorporated in Title 36 of the Code of Federal Regulations. Although there are, indeed, certain common problems within the National Park System that require uniform policies and regulations, there are a significant number of park areas that, because of their individual characteristics, public use patterns or legislative mandates require individual policy considerations and special regulations. Subparts A and B of these proposed regulations are designed to provide a uniform and consistent approach to the management and use of the Alaska National Monuments wherever feasible and practical. However, in recognition of the different characteristics and use patterns that exist among the new national monuments the National Park Service has provided, in Subpart C, the means by which an individual monument could be administered under regulations and policies specific to the requirements of that monument.

Public Use and Recreation

Access: Reasonable routes and methods of access across monument lands would be granted to any person who has a valid property or occupancy interest in lands within or effectively surrounded by monument lands. Routes and methods of access would be limited to those traditionally used by the applicant unless the Superintendent determines that reasonable alternative routes or methods of access exist which would be less damaging to the environmental values of the monument. It is the intent of this section to provide reasonable access in a manner that imposes the minimum administrative burden upon the applicant. However, it is not intended to that this section be used to authorize a new or modified route or method of access that would require the construction of permanent improvements such as roads, graded runways, structures of bridges, the construction of which requires cement or steel abutments or is designed to accommodate vehicles in excess of 10 tons. Permanent improvements requiring substantial construction or resulting in significant impact upon monument lands would be permitted only in accordance with the provisions of 43 CFR, Part 2800.

Access for purposes of mining or the extraction of oil or gas is governed by Part 9 of this Chapter.

Aircraft: Fixed wing aircraft may be landed and operated on lands and waters within the Alaska National Monuments except at those times or in

those locations where such use is temporarily or permanently prohibited. The provision permitting the Superintendent to otherwise restrict the use of aircraft is intended to provide the broad authority necessary to ensure the protection of monument values without having to resort to a temporary or permanent closure. Such restrictions may relate to the times of use, type or size of aircraft, or other restrictions necessary or appropriate. In other words, the National Park Service would prefer to ensure the protection of monument values with the least restrictive approach. For example, if a given resource management problem could be solved by restricting take-offs and landings to a certain time of day, then this restriction, rather than a total prohibition of aircraft use, would be the preferred approach. This does not mean that the National Park Service would not temporarily or permanently close areas of the Alaska National Monuments where such closures are deemed necessary.

Closures of monument lands to the use of aircraft could take either of two forms. Temporary closures would be instituted by the Superintendent upon the determination that a situation requiring immediate action exists. This close authority would not require public comment and would not exceed one year. Temporary closures are designed to provide immediate relief from the adverse effects of aircraft. For example, a temporary closure could be imposed in appropriate areas during the Caribou calving season. Permanent closures would be subject to the full rulemaking process, including public participation. A permanent closure would only be initiated if the Superintendent determines that aircraft use is adversely impacting one of the factors listed in Section 13.11(b). The National Park Service recognizes that other values must be protected in the administration of the Alaska National Monuments. Among these are the preservation of areas where material alteration or the disturbance of environmental characteristics or the introduction of artificiality into a natural environment are minimized.

As a part of this rulemaking process, the National Park Service invites suggestions as to specific areas that should be permanently closed to the use of aircraft.

Cabins and Other Structures: Over the years, cabins and other structures have been built on unpatented Federal lands. The builders or occupants of these cabins have no legal right to continue the occupancy of the land of

which the cabins are located. Extended long-term use is not in the best interest of the general public. However, the long, customary use of such property, the uncertain status of land during the late 1960's and early 1970's and the substantial investment that many people have made in the structures suggest the need for an equitable and orderly termination of use. The National Park Service proposes to grant use and occupancy privileges to individuals occupying cabins or other structures pursuant to a nontransferable permit. The degree of privilege afforded an occupant would be determined by the status of the Federal land at the time of original occupancy by the individual. Land status would be determined by the public land orders that were in effect at the time of occupancy.

The permit system would recognize two categories of occupants. The first category is comprised of those persons who built or occupied cabins or other structures on unpatented Federal lands prior to March 25, 1974. These occupants may apply for a five (5) year nontransferable, renewable permit. The permit would be revocable for violations of the conditions of the permit or at the discretion of the Alaska Area Director upon 180 days written notice. The renewability of these permits will be governed by the provisions of 43 CFR Part 21. The second category consists of those persons who built or occupied cabins or other structures between March 25, 1974 and December 1, 1978. These occupants may apply for a nontransferable, nonrenewable permit. The permit would be issued for a maximum term of one year and revocable for violations of the conditions of the permit or at the discretion of the Alaska Area Director upon 30 days written notice.

Those persons who occupied cabins or other structures on Federal lands after December 1, 1978, the date of the Presidential proclamations, shall not be afforded use and occupancy privileges and shall be subject to the provisions of 36 CFR 5.15, prohibiting residency on Federal lands.

The National Park Service would provide long-term occupancy to those persons who occupied Federal lands prior to March 25, 1974. On March 25, 1974, Public Land Order 5418 closed to settlement all remaining public lands in Alaska. Prior to this date, Public Land Order 4582, dated January 17, 1969 "froze" public lands from all disposition pending settlement of the Native land claims. On September 19, 1972, lands currently within the Alaska National Monuments were withdrawn from entry

or occupancy. The National Park Service recognizes that during this period there was some confusion as to the status of land. Therefore, the March 25, 1974, date represents the most equitable cut-off point.

The Service would not afford the same privileges to those persons who built or occupied cabins or other structures on Federal lands after March 25, 1974. The land withdrawals were well-known and established at this time. Therefore, the Service believes that a one year phase-out period in which to relocate is reasonable.

Camping: Camping within the new Alaska National Monuments is permitted except at those times or locations temporarily or permanently closed or otherwise restricted by the Superintendent. The National Park Service would close an area to camping when the Superintendent determines that use of the area has resulted in resource damage or that other management considerations require closure as set forth in Section 13.13 of this Part.

Commercial Fishing: Commercial fishing operations that were operating on lands or waters within the Alaska National Monuments at the time of the Presidential proclamations could continue in accordance with a permit issued by the Alaska Area Director. The permit would govern such activities as access, temporary camps, use of other monument resources in support of commercial fishing operations, sanitation and other conditions necessary to ensure that commercial fishing operations are compatible with the purpose for which the monuments were established.

Firearms, Traps and Weapons: Firearms could be carried within the Alaska National Monuments for reason of personal protection, except at those times or in those areas temporarily or permanently closed or otherwise restricted by the Superintendent. The Superintendent would retain the authority to prohibit or restrict the carrying of firearms in those areas and at those times when the potential for injury or loss of life inflicted by dangerous animals is negligible or where necessary to insure public safety. For example, restrictions may include the carrying of unloaded firearms in areas of concentrated public use or the closing of certain areas of the monuments to the carrying of firearms.

The proposed regulations distinguish between the carrying of firearms for purposes of personal protection and the carrying of other weapons. Only firearms could be carried by

recreational users on monument lands. The carrying of nets, traps and other weapons such as spear guns, slingshots and other implements designed to discharge missiles would be prohibited. However, local rural residents authorized to engage in subsistence uses would be permitted to use, possess and carry weapons, traps and nets in accordance with applicable State and Federal law.

In order to provide transient relief for persons crossing monument lands, the possession of weapons, traps and nets within or upon, a device used for transportation would be permitted provided such implements are unloaded and cased or otherwise packed in such a way as to prevent their ready use while in an Alaska National Monument.

Motorboats: Motorboats would be permitted to be operated on all waters within the Alaska National Monuments except where such use is temporarily or permanently prohibited or otherwise restricted by the Superintendent. The National Park Service is proposing to implement this regulation in a manner that will provide for access and accommodate recreational uses while at the same time closing some bodies of water to motorboat use so that material alteration or the disturbance of environmental characteristics or the introduction of artificiality into a natural environment is minimized.

As set forth in Subpart C, the Service is proposing to close the following lakes in Lake Clark National Monument to use of motorboats: Telaquana Lake, Turquoise Lake, Twin Lakes, Lackbuna Lake, Portage Lake, Kijik Lake, Kontrashibune Lake. These Lakes would be closed to motorboat use by both recreational and subsistence users. The Service is proposing this action to preserve the ecological integrity of lakes where little or no known motorboat uses occur and minimize the degree of environmental disturbance.

As part of this rulemaking process, the National Park Service invites suggestions as to the specific areas or times that should be permanently closed to the use of motorboats.

Off-Road Vehicles: The National Park Service proposes to restrict the use of motor vehicles to established roads and parking areas. The Superintendent would be authorized to designate routes for off-road travel in accordance with the criteria listed in Section 13.17(b)(1). This regulation is designed to prevent the resource damage and habitat degradation that can occur from the uncontrolled use of off-road vehicles. This section is intended to mitigate the impact that all terrain, tracked vehicles

or four-wheel drive vehicles have upon monument resources. The Superintendent would retain authority in Section 13.17(b)(4) to restrict the use of or temporarily close any designated route.

The procedures for route closures described in subparagraph (b)(5) are relatively new. They are a result of provisions added to Executive Order 11644 on May 24, 1977, by Executive Order 11989 (42 FR 26959). Section 9(a) of this latter order, entitled *Special Protection of the Public Lands*, reads as follows:

(a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

Under existing regulations, superintendents of park areas now have authority, on a discretionary basis, to close areas or routes to the use of vehicles whenever necessary for protection of park values. These proposed regulations merely make such closures mandatory in situations where use "will cause or is causing considerable adverse effects."

Such closures would be considered temporary in nature, an emergency measure taken to protect natural or cultural resources. Once such a closure had been made, the area or route affected would be reevaluated as to its suitability for off-road vehicle use. A determination would be made whether the closure should become permanent or if mitigating factors or changed conditions would permit reopening. Consistent with existing regulations, prior to making a final decision to reopen a route for off-road travel or to permanently close a previously designated route, notices of proposed and final rule-making would be published in the "Federal Register" and the public would be provided a period of at least 60 days to comment on the proposal.

Picnicking: The current regulations applicable to units of the National Park System prohibit picnicking in national monuments except in those areas designated by the posting of appropriate signs. This regulation was designed to protect the natural scene and reduce damage in highly visited park areas with

automobile access. The National Park Service has concluded that because of the type and pattern of visitation in the new Alaska National Monuments, existing restrictions on picnicking are unnecessary. The Superintendent would retain the authority to close areas to picnicking for reasons of public health and safety or other management considerations.

Preservation of Natural Features: Existing regulations governing public use and recreation in units of the National Park System prohibit the cutting of standing dead trees. The National Park Service has determined that the use of dead trees, either standing or downed, as fuel for recreational campfires in the Alaska National Monuments would not result in significant adverse impact. Therefore, the Service is proposing to provide relief from the general regulations governing the use of park resources and plant materials and to provide guidelines for the consumption and use of certain renewable resources.

Snowmobiles: The National Park Service recognizes the value of snowmobiles as a traditional, and sometimes sole, means of access to monument lands. Therefore, the use of snowmobiles would be permitted in areas or on routes designated by the Superintendent in accordance with the criteria listed in 13.20(b)(1). This proposal represents an attempt by the Service to accommodate traditional and necessary means of access while at the same time preserving parts of the Alaska "bush" in a relatively wild state where the influence of man is not overly apparent as a result of the use of mechanized transport. In implementing this section the Superintendent would designate routes or areas of access to serve major portions of a park area. However, the Service anticipates that other areas would not be designated as open for snowmobile use. This philosophy of general access, through designated routes and areas combined with areas not open to snowmobile use, is designed to address the criteria expressed in Section 4 of Executive Order 11644, which provides:

Areas and trails shall not be located in officially designated wilderness areas or primitive areas. Areas and trails shall be located in areas of the National Park System, Natural Areas, or National Wildlife Refuge and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic or scenic values.

The National Park Service interprets this requirement to mean that trails and areas would only be opened to

snowmobile use when a positive determination has been made that such use will not adversely affect the scenic, aesthetic or natural values. Therefore, the Service proposes to open areas for snowmobile use only after the Superintendent has determined that the use of snowmobiles will not adversely affect the natural, esthetic or scenic values of the monument.

Section 3 of Executive Order 11644 requires that areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses. The National Park Service recognizes that other values must be protected in the administration of the Alaska National Monuments. Among these are the preservation of areas where material alteration or the disturbance of environmental characteristics or the introduction of artificiality into a natural environment are minimized. Therefore, the Service proposes that some areas within the Alaska National Monuments would not be open to the recreational use of snowmobiles.

As a part of this proposed rulemaking the National Park Service invites suggestions as to specific areas or times that should be closed to the use of recreational snowmobiles.

The use of snowmobiles for subsistence purposes is governed by § 13.46 of this Part.

Unattended and Abandoned Property: The purpose of this section is to modify the relevant "general regulations" which prohibit leaving personal property unattended longer than 24 hours without the prior permission of the Superintendent. The National Park Service has determined that this regulation is too restrictive to adequately accommodate subsistence and recreational uses within the Alaska National Monuments. The Service proposes to allow personal property to be left unattended to up to nine months before it would be deemed abandoned and subject to impoundment. In effect, this accords personal property within an Alaska National Monument a nine-month presumption that it is only temporarily unattended. Personal property may be left unattended for periods of time in excess of nine months with the prior permission of the Superintendent.

The National Park Service is concerned that personal property not be located or maintained in such a manner as to constitute a threat to public safety or impair the aesthetics of the monument. In addition, this section is intended to allow the Superintendent to specify the conditions under which

personal property is unattended to insure, for example, that food and equipment caches or other unattended personal property does not attract or is not accessible to animals.

The section provides that the Superintendent may establish limits on the amount and type of personal property that may be left unattended. In addition, the Superintendent is authorized to designate locations where personal property may be left unattended for periods of time to be designated by the posting of appropriate signs or by designating on a map which shall be available for public inspection at the office of the Superintendent.

Subsistence

Background. Following a description of the outstanding historic and scientific values of the particular area involved, each proclamation establishing a new Alaska National Monument, except the proclamation for Kenai Fjords, recognizes that the area preserved as a national monument for the protection of the enumerated historic and scientific features.

Supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected . . . because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monuments.

For this reason, the proclamations direct the Secretary to

promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents.

The regulations governing subsistence, which the Service is today proposing as Subpart B of Part 13, are in furtherance of the above-quoted language from the proclamations. It is the purpose of these proposed regulations to provide and regulate the opportunity of local rural residents to engage in a subsistence lifestyle in the new Alaska National Monuments. The proposed regulations establish subsistence uses of the wild, renewable resources of the new monuments (hereinafter "monument resources") as the highest priority consumptive uses in the new monument areas. Nevertheless, they regulate the opportunity to engage in subsistence uses in certain respects for two independent reasons:

(1) The regulations for the new national monuments must afford protection to the many values which support the monument designations. According to the proclamations, the protection of the subsistence lifestyle must "enhance," not detract from, the other historic and scientific values of the monuments.

(2) The new national monuments are units of the National Park System and subject to the provisions of the National Park Service Organic Act, 16 U.S.C. §§ 1, *et seq.* According to the Organic Act, the "fundamental purpose" of units of the Park System, including national monuments, "is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. § 1.

Subject to the constraints imposed by the language of the proclamations and the provisions of the Organic Act, the Service has developed a proposed subsistence program which borrows liberally from points of general agreement reached in the legislative activity on the Alaska National Interest Lands and as much as possible from the regulatory program developed by the State of Alaska Boards of Game and Fisheries.

State regulation. Most public comments from the urban areas of Alaska favored subsistence regulations under State control. Most public comments from rural areas, including Native corporations, favored subsistence regulations under Federal control. The proposed regulations, like the subsistence program proposed in the legislation on the Alaska National Interest Lands, create a careful balance between State and Federal authority (Section 13.44). They set forth certain criteria that any subsistence program, State or Federal, must meet:

(1) The subsistence regulations must adequately implement the "subsistence preference" (Section 13.40(b)(1)). The purpose of the "subsistence preference" is to ensure that the local rural residents who are most dependent on the resources, have the least access to alternative resources, and reside in areas where the subsistence lifestyle prevails, have priority consumptive use of monument resources.

(2) The subsistence program must not allow a "significant expansion" of subsistence use of the monument resources beyond the level occurring during the ten-year period before January 1, 1979 (Section 13.40(b)(2)). The magnitudes of resource use which

constitute significant expansions over past use will be determined within two years of final publication of these regulations after consultation with the State, local rural residents, and other interested parties.

If the State develops and implements subsistence regulations that meet these two criteria and are otherwise consistent with Federal law, the State regulations may take the place of the relevant Federal provisions. Accordingly, once the State satisfactorily identifies the local rural residents entitled to engage in subsistence uses on monument lands, the State regulations on this subject shall supersede the relevant Federal regulations (for example, the definition of "local rural resident").

The Service looks forward to the incorporation of adequate State subsistence regulations into the Federal regulatory program for the monuments. The Department of the Interior has consistently recognized the advantages offered by a single, unified regulatory framework designed and supported by both the State and Federal Governments. Although the State has made significant progress toward developing a comprehensive subsistence program, its efforts thus far have unfortunately fallen short of the existing needs in the new monument areas managed by the Service. The State has not yet resolved the problem of identifying the subsistence hunters. Because sport hunting is prohibited but subsistence hunting is allowed in these new monument areas, the Service is already confronted with the problem of distinguishing sport from subsistence hunters. The Service, therefore, has had to develop the proposed identification methods which are capable of practical implementation and enforcement and which protect local rural residents from competition with sport hunters.

Once the State develops and the Service incorporates an adequate State subsistence program, the Alaska Area Director will monitor the program to assure its compliance with the requirements set forth in Subpart B (Section 13.44). Should the State program fail to comply with these requirements, the Alaska Area Director would consult with the State and suggest necessary modifications. If the State is not able to make the necessary modifications, the Alaska Area Director shall modify the program so as to bring it into compliance with the Subpart B requirements. The State may appeal the Alaska Area Director's actions to the Director of the National Park Service.

Whether or not the Service incorporates subsistence regulations developed by the State, the Superintendent of each monument retains the authority to close or restrict any part or all of the monument to subsistence uses for reasons of public safety, administration, or to ensure the natural stability and continued viability of resource populations (Sections 13.44(e), 13.50).

Finally, whether or not the Service incorporates State subsistence regulations, certain other aspects of State regulation which have been part of the interim regulations will continue as part of the permanent regulations for the new Alaska National Monuments. For example, State regulations which govern fishing, snowmobiling, boating, and the taking of wildlife (to the extent such uses are permitted in the new monuments) are incorporated in the Service's regulations and may be enforced by State or Service personnel in the new monuments (Sections 13.47, 13.46, 13.48).

Application and scope. The proclamations establishing the new Alaska National Monuments direct the Secretary of the Interior to provide the opportunity for local residents to engage in a subsistence lifestyle in all the monuments except Kenai Fjords National Monument; consequently, the regulations contained in Subpart B apply to all the new monuments except Kenai Fjords (Sections 13.2, 13.40(a)). These generally applicable regulations of Subpart B, in turn, may be amended, relaxed, or made more stringent by the specific regulations for each national monument area contained in Subpart C. For example, a general regulation contained in Subpart B prohibits the use of aircraft for access to monument areas for purposes of subsistence hunting and fishing; a specific regulation contained in Subpart C for the Gates of the Arctic National Monument, however, relaxes this prohibition in extraordinary cases where no reasonable alternative exists for local rural residents who live in the village of Anaktuvuk.

Policy. The policy objective of the proposed subsistence regulations contained in Subpart B is to accommodate and protect the unique subsistence relationship of certain local rural people in Alaska with their natural environment. These local rural residents are economically dependent on, and have historically taken, the renewable resources which are now within the boundaries of the new Alaska National Monuments. The resources meet both the physical needs of these local rural residents for food, fuel, and clothing and

their societal needs for cultural identity kept intact by skills, lore, and traditions. It is the intent of the Subpart B regulations, to the extent consistent with other policy objectives for units of the Park System in general and these new monuments in particular, to provide the opportunity for local rural residents who are dependent on the resources now within monument areas to continue their existing subsistence lifestyles should they choose to do so. Toward this end, the Subpart B regulations make nonwasteful subsistence use of monument resources the highest priority consumptive use of the resources (Section 13.40(b)). Two other policy objectives, the "subsistence preference" and the "prevention of significant expansion of subsistence use," may nevertheless affect the scope of the opportunity afforded local rural residents to engage in a subsistence lifestyle within monument boundaries, as follows.

(1) *The Subsistence Preference.*

According to the law applicable to the new Alaska National Monuments, the only hunting that may occur within the monument boundaries is hunting by local residents for subsistence purposes. The regulations contained in Subpart B propose a program for identifying the local residents who may engage in subsistence hunting. The data available at this time has enabled the Service to identify concentrations of people, residing throughout the monument areas and in certain additional areas just outside the monument boundaries ("resident zones"), who are economically dependent on, and have historically used, the renewable resources of the monument. The proposed program also allows any person who does not live in the identified areas to demonstrate similar economic dependence on, and historical use of, monument resources in order to obtain a "subsistence permit." Under the proposed program, therefore, all local rural residents allowed to engage in subsistence uses within the monuments must either live in the identified "resident zones" or hold a "subsistence permit" (Section 13.41(b)). At some future time, the Service (or the State, if its regulations have been incorporated into the Service's regulatory program) may have to impose more stringent tests based on the three criteria of the "subsistence preference" (dependence on the resources, availability of alternative resources, local residency) to determine who may engage in subsistence uses of monument resources for either of two reasons:

(a) Development of a prudent and equitable subsistence program has been a difficult task. Indeed, the State of Alaska has delayed undertaking certain aspects of it pending receipt of more data. In the monument areas, however, the Service does not have the luxury of delay. The Service firmly believes that the program proposed today is fair and reasonable based on the available data. Nevertheless, in certain respects this initial system may suffer from both over- and under-inclusiveness. For example, everyone who lives within a resident zone, despite the individual's degree of dependence on the monument's resources, is granted the privilege of taking the renewable resources in the monument. Anyone who lives outside the resident zone, however, must demonstrate his or her economic dependence on, and historical use of, the resources before being granted the privilege (Section 13.43). Like the State Boards of Game and Fisheries, the Service does not now have sufficient data to give a more precise regulatory definition to the three criteria of the subsistence preference. When data becomes available which more specifically analyzes the subsistence lifestyle, the Service intends to refine the program proposed today in order to implement the criteria of the subsistence preference more precisely. In other words, as the data becomes available the Service will consider ways to give preference to those individuals who are most dependent on monument resources, who do not have alternative resources readily available, and who live in places where a genuine subsistence lifestyle predominates.

(b) Whenever a monument's subsistence resources are not sufficiently plentiful for taking by all local rural residents, the Superintendent will have to allocate the resources among the local rural residents in accordance with the criteria of the subsistence preference. For example, if subsistence uses must be restricted to protect the continued viability of the resource populations, to prevent the significant expansion of subsistence uses beyond the ten-year harvest level preceding January 1, 1979, or simply to assure local rural residents the continued opportunity to engage in subsistence uses, the Superintendent would have to limit the privilege of engaging in subsistence uses within the monument boundaries to only those local rural residents who have the most customary and direct dependence upon the resources as the mainstay of their livelihood, or who have the least access to alternative resources, or who live in

places where the subsistence lifestyle predominates. The allocation scheme would, of course, use the available data on the three criteria of the subsistence preference to allocate the available supply of the resources. To the fullest extent possible, moreover, the Service would seek public participation in the affected vicinity for assistance in developing the allocation scheme.

(2) *Prevention of Significant Expansion of Subsistence Use.*

Preventing the subsistence use of monument resources from expanding significantly beyond the ten-year historical level is essential to proper management of all the values preserved and protected by the monument designations (Section 13.40(b)(2)). While the Service clearly recognizes subsistence uses as "the highest priority of all consumptive uses" in the new monuments, the Service will not allow such subsistence uses to expand at the expense of other park system unit objectives set by law and policy, including objectives of conservation and public use and enjoyment. It is the Service's intent that traditional subsistence uses be permitted to continue, if possible, at traditional levels. It is specifically not the Service's intent to allow subsistence harvests to expand, for example, to the level of maximum sustained yield. Many of the monument areas currently have healthy populations of fish and wildlife whose levels should be maintained if possible. Indeed, the Service management policy strive[s] to maintain the abundance, behavior, diversity, and ecological integrity of native animals in natural portions of parks as part of the park ecosystem. . . . Natural processes shall be relied upon to regulate populations of native species to the greatest extent possible.

The Service is using the ten-year period of reference, as the legislative sponsors have, because the levels of harvest fluctuate with the natural rise and fall of resource populations. In fact, such resource populations vary from year to year, and subsistence uses change according to resource availability. Management must be flexible to accommodate these variations. In the case of some species for particular years, the data on populations and level of subsistence use is sketchy. All in all, however, the existing data on past levels of use set forth in several research documents including the 1974 Environmental Impact Statements on the Section 17(d)(2) withdrawals, the State of Alaska's November Task Force Report on subsistence, and research studies of subsistence communities prepared

under contract with the Service, establish a reasonable basis for monitoring and, if necessary, restricting the expansion of subsistence uses. In order to provide an opportunity for interested parties, and notably the State and the subsistence users themselves, to participate in determining the level of harvest that constitutes a significant expansion, the Service is proposing to phase this policy into practice within the two years after final promulgation of the Subpart B regulations.

(3) *Closure.* The implementation of the subsistence preference and the prevention of the significant expansion of subsistence use are essential policy elements of any subsistence program for the new Alaska National Monuments, whether under Federal or State control. In fact, any regulatory program which the State develops must adequately provide for these elements in order to supersede the relevant provisions of the Federal program (Section 13.44). Whether or not the Service has incorporated State subsistence regulations into Subpart B, however, the Superintendent of each national monument retains the power to close or restrict any part or all of a monument to subsistence uses "if necessary," in the words of the proclamations, "for reasons of public safety, administration, or to ensure the natural stability or continued viability" of the resource populations (Sections 13.44(e), 13.50).

These closure standards allow the Superintendent to act in situations which threaten public health and welfare, to protect all the values and uses intended for the new monuments by the Presidential proclamations and the Park Service Organic Act, to maintain monument resource populations upon which local rural residents rely at levels adequately above the threatened level, and to otherwise manage the new monument areas prudently. The "subsistence preference" allows the Superintendent to restrict the taking of monument resources by other types of consumptive users (e.g., sport fishers, recreational berry-pickers) before considering the necessity of restricting subsistence taking. Absent an emergency situation, the Superintendent will not close all or part of a monument to subsistence uses without prior consultation with the State and informal public-hearing in the affected vicinity. In an emergency situation requiring immediate action (e.g., disease among a wildlife population, hazardous pollution of a heavily-fished body of water, migration of a herd of caribou into a popular public use area), the Superintendent will

order the closure of the area or other appropriate measures for a period of not more than sixty days. The Superintendent will extend such an emergency closure, moreover, only if he determines, after informal public hearing in the affected vicinity, that the extension is necessary to protect the public safety, to administer the areas properly for protection of all their values, or to maintain the resource at healthy population levels.

Inasmuch as a closure to subsistence uses may, in some circumstances, affect customary patterns of the subsistence lifestyle, the Superintendent will not take such a step lightly. Whenever possible, the Superintendent will seek prior State and public consultation. To assure adequate notice of the public hearing and any resultant action, the Superintendent will publish the necessary information in newspapers of general and local circulation, submit it for broadcast on local radio stations, and post it prominently at his or her office.

Definitions. The Subpart B regulations propose to adopt the consensus definitions of "subsistence uses" and "family" which appear in the various legislative proposals on the Alaska National Interest Lands. The term "subsistence uses" is defined as the customary and traditional use by local residents of rural Alaska of fish, wildlife, and plants for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making or selling of handicraft articles out of the nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade of furs for cash.

These definitions contain several provisions worthy of further explanation. The definition of "subsistence uses" limits the term's scope to activities carried out by "local rural residents"; in so doing, it excludes former rural residents who now live in one of Alaska's urban centers. Furthermore, as explained by the definition of "local rural residents," in order to qualify as a subsistence user within a new monument (absent a "subsistence permit"), a person must have his or her *permanent* home within the designated resident zone and, whenever absent from this permanent home, have the intention of returning to it. A permanent home is where one intends to remain. In most circumstances, it is where one votes, and it is the home address which one indicates on hunting and fishing

licenses, income tax returns, and driver's licenses.

The definition of "subsistence uses" includes the making and selling of handicraft articles from the nonedible by-products only of fish and wildlife resources taken for personal or family consumption. Accordingly, the definition covers such commercial activities only if the edible portions of the resource have been used for personal or family consumption. The definition of "barter" recognizes that a genuine subsistence lifestyle includes certain foodstuffs and other items which may only be available through a non-cash exchange. Consequently, barter of subsistence resources of a noncommercial nature falls within the meaning of subsistence uses. The definition of "customary trade" recognizes that a genuine subsistence lifestyle may also include limited involvement in the cash economy through the exchange of furs. For example, local rural residents may engage in trapping to obtain the cash required for store-bought supplies such as gasoline and ammunition.

Finally, the definition of "family" recognizes extended family patterns common in the subsistence culture of Alaska. It also includes within its coverage any person living in a household on a permanent basis, as well as all local rural residents living outside the household who are related by blood, marriage, or adoption (legal or equitable).

Qualification as local rural resident. The proposed Subpart B regulations grant the privilege of engaging in subsistence uses of monument resources to "local rural residents." As presently defined, these local rural residents are persons who either live in designated "resident zones" (Section 13.42) or hold a "subsistence permit" (Section 13.43). "Resident zones" are designated, and "subsistence permits" will be issued, on the basis of geographical, economic, and historical criteria, *i.e.*, residency in or near the monument, dependence on the monument resources as the mainstay of livelihood, and history of use of monument lands. In the case of "resident zones," the service applies these criteria to "concentrations" of people based on available research; in the case of "subsistence permits" for people who live outside resident zones, the superintendent will apply these criteria to individual applicants.

The so-called economic criterion states that local rural residents are "dependent, as the mainstay of [their] livelihoods[s], upon the subsistence uses of wild, renewable resources taken within the monument." In applying this

criterion, the Service seeks to identify communities and individuals who primarily depend on, or whose economies are predominated by, subsistence uses of the wild, renewable resources of the new monuments.

The so-called historical criterion states that local rural residents have, or are members of families which have, "established patterns of subsistence hunting, fishing, or gathering activities within the monument, or a history of subsistence activities within the monument as demonstrated by use of fish camps, trapline cabins, hunting camps, cache sites, and other identifiable locations of subsistence use." By means of this criterion, the Service intends to focus on the subsistence tie of the community or individual to the particular monument area. Genuine subsistence users in an area know its features thoroughly: its resource concentrations and dynamics, harvest patterns, navigational factors, trail systems, and the like. They, their families, and often their ancestors have hunted, fished, gathered, and trapped the area; in so doing, they have established camps and locations of subsistence use. They are tied to the area by custom and tradition.

(a) *Resident Zones.* By definition, the "resident zone" for each new monument encompasses the area and communities within the monument boundaries as well as certain areas and communities just outside the boundaries where a genuine subsistence lifestyle predominates (Section 13.41(c)). The proposed "extra-boundary" areas and communities for each new monument, listed in Subpart C of the regulations, are as follows:

(a) Aniakchak National Monument: Chignik, Chignik Lagoon (Section 13.70(a)(1));

(b) Bering Land Bridge National Monument: Buckland, Deering, Shishmaref, Whales (Section 13.71(a)(1));

(c) Cape Krusenstern National Monument: Kivalina, Kotzebue, Noatak (Section 13.72(a)(1));

(d) Denali National Monument: Minchumina, Telida (Section 13.73(a)(1));

(e) Gates of the Arctic National Monument: Alatna, Allakaket, Ambler, Anaktuvuk, Bettles, Kobuk, Shungnak (Section 13.74(a)(1));

(f) 1978 Enlargement of Glacier Bay National Monument: none (Section 13.75);

(g) 1978 Enlargement of Katmai National Monument: Egigik, Igiugig, Kakhonak, Levelook (Section 13.76(a)(1));

(h) Kenai Fjords National Monument: subsistence uses prohibited (Section 13.77(a));

(i) Kobuk Valley National Monument: Ambler, Kiana, Kobuk, Noorvik, Shungnak (Section 13.78(a)(1));

(j) Lake Clark National Monument: Nondalton, Port Alsworth (Section 13.79(a)(1));

(k) Noatak National Monument: Kivalina, Kotzebue, Noatak (Section 13.80(a)(1));

(l) Wrangell-St. Elias National Monument: Chistochina, Chitina, Copper Center, Gakona, Gulkana, McCarthy, Mentasta Lake, Nabesna, Slana, Yakutat (Section 13.81(a)(1));

(m) Yukon Charley National Monument: Circle, Eagle, Eagle Village (Section 13.82(a)(1));

Under the proposed regulations, anyone who permanently resides within the monument boundaries or in one of the communities listed above may engage in subsistence uses in the appropriate monument. In other words, persons who live in the resident zone for Lake Clark National Monument may engage in subsistence uses only in that monument (unless such person's community is also listed in the resident zone for another national monument).

In determining the proposed list of "extra-boundary" communities for each monument, the Service reviewed several documents, including the studies of subsistence communities prepared for the Park Service, the 1974 Environmental Impact Statement on the Alaska National Interest Lands, and the 1978 Environmental Supplement on Alternative Administrative Actions. The Service also reviewed information from several of its employees who have studied the subsistence lifestyle throughout the State and, in some cases, have lived "in the bush" for years. The resultant list is meant to include communities where most, and in some instances all, of the inhabitants qualify under the economic and historical criteria which describe local rural residents.

The Service recognizes that certain communities outside the designated resident zones contain persons who can qualify as local rural residents. Such communities include King Salmon, Naknek, and South Naknek for Katmai National Monument; Glenallen for Wrangell-St. Elias National Monument; and Yakutat for the 1978 Enlargement of Glacier Bay National Monument (Yakutat is within the resident zone for Wrangell-St. Elias National Monument). The Service encourages the people in these communities and others who depend on, and have historically used,

monument resources to apply for a "subsistence permit."

(2) *Subsistence Permits.* Any person who permanently resides outside a resident zone must obtain a "subsistence permit" in order to engage in subsistence uses of monument resources. The Service has taken efforts to eliminate all unnecessary burdens from the application process while still providing sufficient procedural protections to assure fair and reasonable decisionmaking on the permit applications.

The application process at the Superintendent's level is simple. The applicant must demonstrate to the Superintendent, preferably on a written form but otherwise by oral presentation, either of the following:

(1) He or she meets the economic and historical criteria set forth in the regulations (Section 13.43(a)(1)), or

(2) He or she qualifies as a "local rural resident" who may engage in subsistence uses in another national monument, and his or her subsistence lifestyle (as supported by available research) involves a pattern of subsistence uses between the other monument and the monument for which the applicant now seeks a permit (Section 13.43(a)(2)).

The Service believes that the Superintendent will be able to issue subsistence permits quickly and routinely in cases of genuine subsistence users.

Should the Superintendent deny the permit, the applicant who wishes to have his or her application reconsidered must so inform the Alaska Area Director by letter, telephone, or any other means of communication within 60 days of the Superintendent's issuing the denial. Within a time to be determined thereafter, the permit applicant shall present the Alaska Area Director with (1) any additional information demonstrating that the applicant meets the economic and historical criteria, (2) the basis for the applicant's disagreement with the Superintendent's decision, and (3) any request for an informal hearing accompanied by a description of the new information to be presented and of any persons to be questioned at the hearing. The Alaska Area Director shall grant a hearing if it would significantly enhance the decisionmaking process.

To accommodate the permit applicants who would be inconvenienced by travelling to Anchorage for a hearing, the Alaska Area Director will periodically "ride circuit," scheduling hearings throughout the State. The Alaska Area Director

shall promptly notify the applicant of the decision on reconsideration. This decision shall constitute final action by the Department of the Interior. In accordance with applicable law, the permit applicant may, of course, seek judicial review of a denial on reconsideration.

Prohibition of aircraft use. The proposed Subpart B regulations generally prohibit the use of aircraft by local rural residents for access to monument areas for purposes of subsistence hunting and fishing. It is the Service's determination, supported by numerous comments from, *inter alia*, certain native organizations and by available research on the subsistence lifestyle, that rural residents who are primarily dependent on, and have historically taken, monument resources do not, in most cases, use aircraft for access for subsistence activities.

What cash these local rural residents acquire is used to purchase necessities not otherwise supplied by subsistence uses. Certainly, as a general rule, the expense of aircraft use greatly exceeds the ability of the local rural resident to pay for it. On the other hand, aircraft is commonly used by sport hunters who are now prohibited from hunting in monument areas. In this respect, the prohibition of aircraft use for subsistence activities reinforces the ban on sport hunting in monument areas and assists the Service in distinguishing sport from subsistence hunters.

The proposed Subpart C regulations for individual monuments, however, afford the Service flexibility to make exceptions to the general prohibition. For any monument, the Service may designate communities whose local rural residents may apply for a permit to use aircraft for subsistence purposes. The Superintendent will grant the permit only in extraordinary cases where, in the Superintendent's determination, no reasonable alternative to aircraft use exists. At this time, the Service has found and is proposing for designation only one community, Anaktuvuk in Gates of the Arctic National Monument, whose local rural residents presently rely on aircraft for access to their customary and traditional areas of harvest in the monument. The people of Anaktuvuk, isolated, remote, surrounded by difficult terrain, are far-removed from the wildlife populations whose harvest sustains them; moreover, they do not have adequate and available alternative resource populations for sustenance.

Use of snowmobiles and motorboats for subsistence activities. The Subpart B regulations relax the Subpart A

regulations on use of snowmobiles and motorboats in the case of local rural residents who are engaged in hunting, fishing and gathering activities within the new monuments. All routes and areas are open to subsistence snowmobile and motorboat use except as specifically restricted or closed. The Superintendent will implement such closures or restrictions on the basis of criteria which are stricter than the criteria for closure to general recreational use. These minimum criteria are largely mandated by Executive Order 11644, as amended. The Superintendent will arrange notice and public participation concerning the closure proposals in order to involve those affected to the fullest extent possible in the decisionmaking.

Any person operating a motorboat or snowmobile must comply with applicable State and Federal laws governing such operation and must avoid causing injury to any part of value of the monument. In addition, consistent with State law, he or she may not use a motorized vehicle so as to herd, harass, haze, or drive wildlife for hunting or other purposes.

The use of snowmobiles or motorboats by local rural residents for "recreational" and "access" purposes, not subsistence activities, is governed by the appropriate Subpart A regulation (Sections 13.20, 13.16, and 13.10).

Subsistence hunting, trapping, fishing, and gathering. As has already been explained, only local rural residents may engage in hunting and trapping in the new Alaska National Monuments. These local rural residents must comply with applicable State law governing hunting and trapping, *e.g.*, bag limits, safety requirements, seasons and hours (Section 13.48). They must also comply with applicable Federal law, *e.g.*, closures and other restrictions. For example, the Service is proposing to prohibit the taking of dall sheep in Lake Clark National Monument (Section 13.79(a)(2)) because the Service has determined that the subsistence users of the area do not, by custom or tradition, take dall sheep. With respect to trapline cabins, the Service has provided for their use, occupancy, and maintenance where necessary to accommodate local rural residents (Section 13.12(f)).

Local rural residents may, of course, engage in fishing in the new monuments in compliance with applicable State and Federal law. The Service has relaxed its "general regulations" in the case of local rural residents to allow the customary and traditional use of nets, seines, traps, or spears where permitted by State law (Section 13.48).

The Subpart B regulations also allow local rural residents to obtain a permit to cut standing live timber for subsistence needs such as shelter or fuel. (Section 13.49) Before issuing a permit, the Superintendent must determine that the proposed cutting is compatible with the purposes for which the monument was established. In addition, the Superintendent will include in the permit any stipulations deemed necessary to protect the resources of the monument. Under the Subpart B regulations, local rural residents do not need a permit to gather plant materials or dead or downed timber for subsistence uses.

Public Comments and Hearings

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. The comments received in response to the Notice of Intent were very helpful in the preparation of this proposed rulemaking and the National Park Service encourages the public to submit comments on the text of these draft regulations. All such written comments should be sent to the address noted at the beginning of this rulemaking. The National Park Service also intends to hold public hearings in Anchorage and Fairbanks on this proposed rulemaking at the beginning of August. Specific details concerning the date, time and location of those hearings will be published in a separate subsequent notice in the Federal Register.

Drafting Information

The primary authors of this Notice are Molly N. Ross, Office of the Solicitor, Department of the Interior and Michael V. Finley, Division of Ranger Activities and Protection, National Park Service, Washington, D.C.

Impact Analysis

The Department of the Interior has made a determination that the proposed regulations contained in this rulemaking are not significant, as that term is defined under Executive Order No. 12044 and 43 C.F.R. Part 14, nor do they require the preparation of a regulatory analysis pursuant to the provisions of those authorities. In addition, the Department has determined that the proposed regulations do not represent a major Federal action significantly affecting the quality of the human environment. A twenty-eight volume environmental impact statement was prepared in 1974 concerning the establishment and management of Alaska National Interest Lands

conservation system units in Alaska, including the areas now designated as the new Alaska National Monuments. The 1974 EIS was supplemented in November of 1978 with an analysis of the impacts of alternative Executive Branch actions designed to conserve the Alaska National Interest Lands. In addition to those environmental documents, and the numerous studies included within their bibliographies upon which they were based, a wealth of other materials and analysis have been generated on the management of the Alaska National Interest Lands as a result of Congressional action on the so called "d-2" legislation. As the date of this proposed rulemaking, four separate committee reports have been published in the House of Representatives and one lengthy committee report has been published in the Senate on the issue of the establishment and management of new conservation system units in Alaska. This is in addition to over twenty-five formal Congressional committee hearings conducted on this matter. The Service also notes that consultation was conducted on this proposed rulemaking under section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1536, and that it was concluded that this proposal was not likely to jeopardize the continued existence of endangered or threatened species or result in the adverse modification or destruction of critical habitat.

Dated this 22nd day of June, 1979.

Robert L. Herbst,

Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing it is proposed that title 36 of the Code of Federal Regulations be amended by the establishment of a new Part 13 as follows:

PART 13—ALASKA NATIONAL MONUMENTS

Sec.

13.1 Definitions.

13.2 Applicability and Scope.

Subpart A—Public Use and Recreation

- 13.10 Access.
- 13.11 Aircraft.
- 13.12 Cabins and Other Structures.
- 13.13 Camping.
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- 13.15 Firearms, Traps and Weapons.
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- 13.18 Picnicking.
- 13.19 Preservation of Natural Features.
- 13.20 Snowmobiles.
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Subpart B—Subsistence

- 13.40 Purpose and Policy.
 - 13.41 Definitions.
 - 13.42 Determination of Resident Zones.
 - 13.43 Subsistence Permits for Persons Who Permanently Reside Outside a Resident Zone.
 - 13.44 State Regulation of Subsistence Uses.
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- ### Subpart C—Special Regulations—Specific National Monuments in Alaska
- 13.70 Aniakchak National Monument.
 - 13.71 Bering Land Bridge National Monument.
 - 13.72 Cape Krusenstern National Monument.
 - 13.73 Denali National Monument.
 - 13.74 Gates of the Arctic National Monument.
 - 13.75 1978 Enlargement of Glacier Bay National Monument.
 - 13.76 1978 Enlargement of Katmai National Monument.
 - 13.77 Kenai Fjords National Monument.
 - 13.78 Kobuk Valley National Monument.
 - 13.79 Lake Clark National Monument.
 - 13.80 Noatak National Monument.
 - 13.81 Wrangell-St. Elias National Monument.
 - 13.82 Yukon Charley National Monument.

Authority: Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); Sections 1, 1c, 9a, 432 and 462 of Title 16 of the United States Code; 245 DM-1 (42 FR 12931); and the Presidential Proclamations establishing each national monument (43 FR 57009-57132).

§ 13.1 Definitions.

The following definitions shall apply to all regulations contained in this part:

(a) The term "aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including but not limited to airplanes, helicopters and gliders.

(b) The term "Alaska National Monuments" shall include the following national monuments:

Aniakchak National Monument; Bering Land Bridge National Monument; Cape Krusenstern National Monument; Denali National Monument; Gates of the Arctic National Monument; 1978 Enlargement of Katmai National Monument; 1978 Enlargement of Glacier Bay National Monument; Kenai Fjords National Monument; Kobuk Valley National Monument; Lake Clark National Monument; Noatak National Monument; Wrangell-St. Elias National Monument; Yukon Charley National Monument.

(c) The term "carry" means to wear, bear or carry on or about the person.

(d) The term "downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(e) The term "firearm" means any loaded or unloaded pistol; revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases.

(f) The term "net" means a snare, weir, net, fish trap, or other implement designed to entrap fish, except a landing net.

(g) The term "off-road vehicle" means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmobiles and vessels as defined in this chapter.

(h) The term "possession" means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

(i) The term "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 lbs. (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis in contact with the snow.

(j) The term "superintendent" means any National Park Service official in charge of a monument area, the Alaska Area Director of the National Park Service or an authorized representative of either.

(k) The term "temporary" means a period of time not to exceed 12 months.

(l) The term "trap" means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

(m) The term "unloaded" means there is no unexpended shell or cartridge in the chamber or magazine of a firearm; bows, crossbows and spearguns are unstrung; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile in the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

(n) The term "weapon" means a firearm (including an air, spring, or gas powered pistol or rifle), bow and arrow, crossbow, blow gun, speargun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles in the air or under the water.

§ 13.2 Applicability and scope.

(a) The regulations contained in Part 13 of this chapter are prescribed for the proper use and management of the Alaska National Monuments and supplement the general regulations of Parts 1 through 6 of this chapter. The regulations contained in Parts 1 through

6 of this chapter are applicable except as modified by Part 13.

(b) Subpart A of Part 13 contains regulations applicable to all the Alaska National Monuments. Such regulations may amend, modify, relax or make more stringent the general regulations contained in Parts 2 through 6 of this chapter.

(c) Subpart B of Part 13 contains regulations applicable to subsistence activities. Such regulations apply to all the Alaska National Monuments, except Kenai Fjords National Monument.

(d) Subpart C of Part 13 contains special regulations for special national monuments in Alaska. Such regulations may amend, relax or make more stringent the regulations contained in Parts 2 through 6 of this chapter and Subparts A and B of Part 13.

(e) The regulations contained in Part 13 of this chapter are not applicable on privately owned lands, (including Indian lands owned either individually or tribally) within the boundaries of any monument area.

Subpart A—Public Use and Recreation

§ 13.10 Access.

(a) Notwithstanding any other provision of this Part, the superintendent shall, upon application, specify in a permit reasonable routes and methods of access across monument lands and waters for any person who has a valid property or occupancy interest in lands which are located within or effectively surrounded by monument lands. These routes and methods of access shall be limited to those traditionally used by the applicant unless the superintendent determines that reasonable alternative routes or methods exist which would be less damaging to the environmental values of the monument. Where routes of access have not been established previously, the superintendent shall establish such reasonable routes and methods of access as are least damaging to the environmental values of the monument. All specified routes and methods of access shall be recorded on a map which shall be available for public inspection at the office of the superintendent.

(b) Any establishment or modification of a route or method of access which requires the construction of permanent improvements or structures such as roads is prohibited unless authorized pursuant to the provisions of 43 CFR Part 2800.

(c) The provisions of this section shall not apply to access governed by Part 9 of this chapter or to any other rights-of-way governed by 43 CFR Part 2800.

§ 13.11 Aircraft.

(a) Fixed wing aircraft may be landed and operated on lands and waters within the Alaska National Monuments, except where such use is temporarily or permanently prohibited or otherwise restricted by the superintendent. Helicopters may be landed only where authorized by a written permit. The use of aircraft for subsistence purposes is prohibited as set forth in § 13.45.

(b) In determining whether to restrict the use of aircraft or to temporarily or permanently close an area to aircraft use the superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, esthetics, endangered and threatened species conservation and other management considerations necessary to ensure that aircraft use is compatible with the purposes for which the monument was established.

(c) *Temporary closures or restrictions* shall be published as "Notices to Airmen" issued by the Department of Transportation, published in at least one newspaper of general circulation within the State and designated on a map of the area which shall be available for public inspection at the office of the superintendent. Following temporary closure or restriction, any area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on whether to reopen or permanently close the area.

(d) *Permanent closures* shall be published as proposed and final rulemaking in the Federal Register with a minimum of 60 days for public comment, published as a regulatory notice in the United States Government Flight Information Service "Supplement Alaska," published in at least one newspaper of general circulation within the State and designated on a map of the area which shall be available for public inspection at the office of the superintendent.

(e) The owners of any aircraft downed after December 1, 1978, shall remove the aircraft and all component parts thereof in accordance with procedures established by the superintendent. In establishing a removal procedure, the superintendent is authorized to:

- (1) Establish a reasonable date by which aircraft removal operations must be complete; and
- (2) Determine times and means of access to and from the downed aircraft.

(f) The superintendent may waive the requirements of § 13.11(e) when he determines that:

(1) The removal of a downed aircraft would constitute an unacceptable risk to human life; or

(2) The removal of a downed aircraft would result in extensive resource damage; or

(3) The removal of a downed aircraft is otherwise impracticable or is impossible.

(g) Salvaging, removing, possessing, or attempting to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a permit issued by the superintendent.

§ 13.12 Cabins and other structures.

(a) On lands not owned by the claimant, cabins or other structures existing prior to March 25, 1974, may be occupied and used by the claimant to these structure pursuant to a nontransferable renewable permit. This use and occupancy shall be for terms of five years, *provided, however*, that the claimants to the structure by application:

(1) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(2) Submits a sketch and photograph of the cabin or structure and a map showing its geographic location;

(3) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit; and

(4) Acknowledges in the permit that he/she has no interest in the real property on which the cabin or structure is located.

(b) On lands not owned by the claimant, cabins or other structure on Federal lands construction of which began between March 25, 1974, and December 1, 1978, may be used and occupied by the claimant to these structures pursuant to a nontransferable, nonrenewable permit. This use and occupancy shall be for a maximum term of 1 year, *provided, however*, that the claimant, by application:

(1) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(2) Submits a sketch and photograph of the cabin or structure and a map showing its geographic location;

(3) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit; and

(4) Acknowledges in the permit that he/she has no interest in the real property.

(c) On lands not owned by the claimant, cabins or other structures, construction of which started after December 1, 1978, shall not be available for use and occupancy as provided for in §§ 13.12(a) and (b).

(d) Cabins or other structures which are razed or destroyed by fire or storm, or other casualty, or which deteriorate structurally to the point of being unsafe or uninhabitable, shall not be rebuilt and the permit for use and occupancy shall be cancelled.

(e) Cabins or other structures, not under permit, shall be used only for official government business, *provided, however,* that during emergencies involving the safety of human life or where designated for public use by the superintendent these cabins may be used by the general public.

(f) The superintendent may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, and maintenance of cabins or other structures when he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(g) The use or occupancy of cabins or other structures, except as provided for in this section is prohibited.

§ 13.13 Camping.

(a) Camping is permitted in the Alaska National Monuments except where such use is temporarily or permanently prohibited or otherwise restricted by the superintendent.

(b) In determining whether to restrict camping, to temporarily or permanently close an area or to open a previously closed area to camping the superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic and scientific values, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that camping is compatible with the purpose for which the monument was established.

(c) *Temporary closures or restrictions* shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) designated by the posting of appropriate signs or (3) both. Following temporary closure or restriction, any area so closed shall be evaluated in

accordance with the criteria stated in paragraph (b) of this section prior to a final decision on whether to reopen or permanently close the area.

(d) *Permanent closures or restrictions* shall be published as proposed and final rulemaking in the "Federal Register" with a minimum of 60 days for public comment and designated (1) on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) by the posting of appropriate signs or (3) both.

§ 13.14 Commercial fishing operations.

Commercial fishing operations in existence within the Alaska National Monuments at the time of their establishment may continue such operations in accordance with a permit issued by the Alaska Area Director. All such commercial fishing operations shall be conducted in accordance with applicable State and Federal law.

§ 13.15 Firearms, traps, and weapons.

(a) Firearms may be carried in the Alaska National Monuments except where such carrying is temporarily or permanently prohibited or otherwise restricted by the superintendent.

(b) In determining whether to restrict the carrying of firearms, to temporarily or permanently close an area to the carrying of firearms or to reopen a previously closed area, the superintendent shall be guided by factors such as other visitor uses, public health and safety, environmental and resource protection, research activities, protection of cultural resources, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that the carrying of firearms is compatible with the purposes for which the monument was established.

(c) *Temporary closures or restrictions* shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) designated by the posting of appropriate signs or (3) both. Following temporary closure or restriction, any area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section prior to a final decision on whether to reopen or permanently close the area.

(d) *Permanent closures or restrictions* shall be published as proposed and final rulemaking in the Federal Register with a minimum of 60 days for public comment and designated (1) on a map

which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) by the posting of appropriate signs or (3) both.

(e) The possession of weapons, traps and nets within or upon a device used for transportation is permitted, *provided,* such weapons, traps or nets are unloaded and cased or otherwise packed in such a way as to prevent their ready use while in an Alaska National Monument.

(f) Notwithstanding the provisions of this section, subsistence users who are authorized to take animals pursuant to § 13.48 of this Part may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal law.

(g) Notwithstanding the provisions of this section, persons authorized to engage in commercial fishing operations pursuant to Section 13.14 of this Part may use, possess or carry nets in accordance with applicable State and Federal law.

(h) Except as provided for in this section, the carrying and possession of weapons, traps or nets is prohibited.

§ 13.16 Motorboats.

(a) Motorboats may be operated on all waters within the Alaska National Monuments except where such use is temporarily or permanently prohibited or otherwise restricted by the superintendent or as provided for in § 13.46.

(b) In determining whether to restrict the use of motorboats or to temporarily or permanently close a route or area to motorboat use, the superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic and scientific values, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that motorboat use is compatible with the purposes for which the monument was established.

(c) *Temporary closures or restrictions* shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) designated by the posting of appropriate signs or (3) both. Following temporary closure or restriction, any route or area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on

whether to reopen or permanently close the area or route.

(d) *Permanent closures or restrictions* shall be published as proposed and final rulemaking in the Federal Register with a minimum of 60 days for public comment and designated (1) on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) by the posting of appropriate signs or (3) both.

(e) If the superintendent determines, at any time, that the use of motorboats on any area or route will cause or is causing considerable adverse effects on soil, vegetation, fish or wildlife, fish or wildlife habitat, historic or scientific values or any adverse effect upon endangered or threatened species or their habitats, that area or route shall be immediately closed to the type of use causing the adverse effects. Following closure, any area or route so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on whether to reopen or permanently close the area or route. No area or route shall be reopened until the superintendent determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

§ 13.17 Off-road vehicles.

(a) The use of off-road vehicles in locations other than established roads and parking areas is prohibited, except on routes designated by the superintendent. Such designations shall be made in accordance with the procedures in this section.

(b) (1) In determining whether to designate a route for off-road travel the superintendent shall be guided by the criteria contained in Section 3 of E.O. 11644, as amended (37 FR 2877) and shall consider such factors as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that off-road vehicle use is compatible with the purposes for which the monument was established.

(2) Prior to making a final decision to designate a route for off-road travel or to permanently close a previously designated route, a notice of proposed and final rulemaking shall be published in the Federal Register and the public shall be provided a period of at least 60 days to comment on the proposal.

(3) Routes on which off-road travel is permitted shall be (1) designated by the posting of appropriate signs, or (2) by marking on a map which shall be available for public inspection at the office of the superintendent, or (3) both.

(4) The superintendent may restrict the use of, or temporarily close, any route designated for off-road travel by the posting of appropriate signs; or by marking on a map which shall be available for public inspection at the office of the superintendent, or both. Restrictions imposed may relate to numbers or types of vehicles, purposes of travel, times of travel, or other such restrictions as are necessary for public health and safety, environmental or resources protection, research activities, protection of historic or scientific values or to reduce conflicts between different land uses.

(5) If the superintendent determines, at any time, that off-road travel on any route will cause or is causing considerable adverse effects on soil, vegetation, fish or wildlife, fish or wildlife habitat, historic or scientific values, or any adverse effect upon endangered or threatened species or their habitats, that route shall be immediately closed to the type of use causing the adverse effects. Following closure, any route so closed shall be evaluated in accordance with the criteria and public comment procedures stated in paragraphs (b)(1) and (b)(2) of this section prior to a final decision on whether to reopen or permanently close the route. No route shall be reopened until the superintendent determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

§ 13.18 Picnicking.

(a) Picnicking is permitted in the Alaska National Monuments except where such activity is prohibited by the posting of appropriate signs.

§ 13.19 Preservation of natural features.

(a) The use of dead or downed timber as fuel for campfires within the Alaska National Monuments is permitted except where such use is prohibited by the superintendent. Such restrictions shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent or (2) by the posting of appropriate signs, or (3) both.

(b) The superintendent may permit the gathering or collecting, by hand and for personal use only, of the following:

- (1) Natural plant food items, including fruits, berries, and mushrooms;
- (2) Driftwood and uninhabited seashells;
- (3) Pebbles and small rocks;
- (4) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans.

Provided, however, that under conditions where it is found that significant adverse impact on park resources, wildlife populations or visitor enjoyment of resources will result, the superintendent shall prohibit the gathering, or otherwise restrict the collecting of these items. Portions of a park area in which restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

§ 13.20 Snowmobiles.

(a) The use of snowmobiles is permitted on routes and areas designated by the superintendent or as provided for in § 13.46. Such designations shall be made in accordance with the procedures in this section.

(b) (1) In determining whether to designate a route or area for snowmobile use the superintendent shall be guided by the criteria contained in Section 3 of E.O. 11644, as amended, (37 FR 2877) and shall consider such factors as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic and scientific values, esthetics, endangered, or threatened species conservation and other management considerations necessary to ensure that snowmobile use is compatible with the purposes for which the monument was established.

(2) Prior to making a final decision to designate an area or route for snowmobile use or to permanently close a previously opened area or route, a notice of proposed and final rulemaking shall be published in the Federal Register and the public will be provided a period of at least 60 days to comment on the proposal.

(3) Routes and areas on which snowmobile use is permitted will be (1) designated by the posting of appropriate signs, or (2) by marking on a map which shall be available for public inspection at the office of the superintendent, or (3) both.

(4) The superintendent may restrict the use of, or temporarily close, any

route or area designated for snowmobile use by the posting of appropriate signs, or by marking on a map which shall be available for public inspection at the office of the superintendent, or both. Restrictions imposed may relate to numbers of types of vehicles, purposes of travel, times of travel, or other such restrictions as are necessary for public health and safety, environmental or resource protection, research activities, protection of historic or scientific values or to reduce conflicts between different land uses.

(5) If the superintendent determines, at any time, that snowmobile use on any route or area will cause or is causing considerable adverse effects on soil, vegetation, fish or wildlife, fish or wildlife habitat, or historic or scientific values or causes any adverse effect on endangered or threatened species or their habitats, that route or area shall be immediately closed to the type of use causing the adverse effects. Following closure, any route or area so closed shall be evaluated in accordance with the criteria and public comment procedures stated in paragraphs (b)(1) and (b)(2) of this section prior to a final decision on whether to reopen or permanently close the area or route. No route or area shall be reopened until the superintendent determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

(c) The operation or use of snowmobiles, except as provided for in this section, is prohibited.

§ 13.21 Unattended or abandoned property.

(a) Leaving any snowmobile, vessel, off-road vehicle or other personal property unattended for longer than 9 months, without prior permission of the superintendent is prohibited and any property so left may be impounded by the superintendent.

(b) The superintendent may (1) designate areas where personal property may not be left unattended, (2) establish limits on the amount, type of personal property that may be left unattended, (3) prescribe the manner in which personal property that may be left unattended, or (4) designate areas in which unattended personal property may be left for periods of time to be determined by the superintendent.

Such designations and restrictions shall be published in the Federal Register and designated on a map which shall be available for public inspection at the office of the superintendent or by the posting of appropriate signs or both.

(c) In the event unattended property interferes with the safe and orderly management of the monument area or is causing damage to monument resources, it may be impounded by the superintendent at any time.

Subpart B—Subsistence

§ 13.40 Purpose and policy.

(a) The purpose of this subpart is to provide for the opportunity to engage in a subsistence lifestyle in the Alaska National Monuments, except Kenai Fjords National Monument, by local rural residents who comply with applicable State and Federal law.

(b) It is the policy of the National Park service that nonwasteful subsistence use of fish, wildlife, and plant resources by local rural residents shall be the first priority consumptive use of such resources over any other consumptive uses permitted within an Alaska National Monument, subject to the following limitations:

(1) Whenever it is necessary to restrict the taking of fish, wildlife, or plant resources within an Alaska National Monument for subsistence uses, such resources shall be allocated in accordance with a preference system based on the following criteria: (a) Local residency;

(b) Customary and direct dependence upon the resources as the mainstay of one's livelihood; and

(c) Availability of alternative resources.

(2) The subsistence use of populations of fish, wildlife, or plants shall be appropriately regulated so as to prevent a significant expansion of such use beyond the level occurring during the ten-year period before January 1, 1979, as determined by available research on subsistence uses in the area. In each case, the level of harvest constituting such a significant expansion of the subsistence use of populations of fish, wildlife or plants will be determined within two years after final publication of these regulations. These determinations will be based on criteria to be developed after consultation with interested parties, including the State of Alaska and local rural residents.

(3) The superintendent of an Alaska National Monument may restrict or prohibit the subsistence use of a particular population of fish, wildlife, or plants for reasons of public safety, administration, or to ensure the natural stability and continued viability of the particular population.

§ 13.41 Definitions.

(a) *Family*: As used in this part, the term "family" shall mean all local rural residents related by blood, marriage, or adoption, or any person living within another person's household on a permanent basis.

(b) *Local rural resident*: (1) As used in this part, the term "local rural resident" shall mean either of the following:

(i) Any person who has his/her permanent home within the resident zone as defined by this section, and, whenever absent from this permanent home, has the intention of returning to it. Factors demonstrating the location of a person's permanent home may include, but are not limited to, one's location of registration to vote and one's permanent address indicated on licenses issued by the State of Alaska Department of Fish and Game, driver's license, and income tax returns.

(ii) Any person authorized to engage in subsistence uses in an Alaska National Monument pursuant to a subsistence permit.

(c) *Resident zone*: As used in this part, the term "resident zone" shall mean the area within, and the communities and areas near, an Alaska National Monument in which persons who have customarily and traditionally engaged in subsistence uses within the monument as the mainstay of their livelihoods permanently reside. The communities and areas near a monument included as part of its resident zone shall be determined pursuant to § 13.42 of this part and listed for each monument in Subpart C of this part.

(d) *Subsistence uses*: As used in this part, the term "subsistence uses" shall mean the customary and traditional uses by local rural residents of wild, renewable resources for personal or family use or consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of the nonedible byproducts of fish and wildlife resources taken for personal or family use or consumption; for barter or sharing for personal or family use or consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "Barter" shall mean the exchange of fish or wildlife or their parts—

(i) for other fish or wildlife or their parts; or

(ii) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(2) "Customary trade" shall be limited to the exchange of furs for cash.

§ 13.42 Determination of resident zones.

As determined by available research on subsistence uses in the area, a resident zone shall include the area within an Alaska National Monument and the communities and areas near the monument which contain concentrations of local residents who

(a) Are dependent, as the mainstay of their livelihoods, upon the subsistence use of wild, renewable resources taken within an Alaska National Monument; and

(b) Have established patterns of subsistence hunting, fishing, or gathering activities within an Alaska National Monument, or have a history of subsistence activities within an Alaska National Monument as demonstrated by use of fish camps, trapline cabins, hunting camps, cache sites, and other identifiable locations of subsistence use.

§ 13.43 Subsistence permits for persons who permanently reside outside a resident zone.

(a) Any person who permanently resides outside the boundaries of a resident zone of an Alaska National Monument may apply for a subsistence permit from the appropriate superintendent authorizing the permit applicant to engage in subsistence uses within the monument. The superintendent shall not grant the permit unless the permit applicant demonstrates that

(1) (i) He/she is dependent, as the mainstay of his/her livelihood, upon the subsistence uses of wild, renewable resources taken within the monument, and

(ii) He/she has, or is a member of a family which has, established patterns of subsistence hunting, fishing, or gathering activities within the monument, or a history of subsistence activities within the monument as demonstrated by use of fish camps, trapline cabins, hunting camps, cache sites, and other identifiable locations of subsistence use; or

(2) He/she is a local rural resident within a resident zone for another national monument, or meets the requirements of paragraphs (1) (i) and (ii) of this section for another national monument, and available research shows a pattern of subsistence uses between the monument previously utilized by the permit applicant and the monument for which the permit applicant seeks a subsistence permit.

(b) The application required by paragraph (a) of this section shall be filed with the superintendent of the appropriate monument. If the permit applicant is unable or does not wish to

file the application in written form, the superintendent shall provide the applicant an opportunity to present the application orally. Each application must include (1) a statement which acknowledges that providing false information in support of the permit application is a violation of Section 1001 of Title 18 of the United States Criminal Code, and (2) additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section. Should the superintendent deny the permit, the superintendent shall include in the decision a statement of the reasons for the denial.

(c) A permit applicant whose application has been denied by the superintendent has the right to have his/her application reconsidered by the Alaska Area Director by contacting the Alaska Area Director within 60 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the permit applicant satisfies the criteria set forth in paragraph (a) of this section;

(2) The basis for the permit applicant's disagreement with the superintendent's findings and conclusions; and

(3) Whether or not the permit applicant requests an informal hearing before the Alaska Area Director, and if the permit applicant does request a hearing,

(i) A description of any information, in addition to that included in the initial application and any written materials presented to the Alaska Area Director, which the permit applicant intends to present at the hearing;

(ii) The names, addresses, and brief description of the proposed presentation of any person which the permit applicant intends to present at the hearing on his/her behalf, and the names and addresses of any persons he/she would like to question at the hearing.

(d) The Alaska Area Director shall grant the permit applicant's request for a hearing if the Alaska Area Director determines that such a hearing would provide significant information that could not otherwise be obtained by written materials alone. After consideration of the written materials and oral hearing, if granted, the Alaska Area Director shall affirm, reverse, or modify the permit denial of the superintendent and shall state the basis for the decision. The Alaska Area Director shall promptly notify the permit

applicant of the decision, which shall constitute final agency action.

§ 13.44 State regulation of subsistence uses.

(a) The State of Alaska may regulate, in a manner consistent with the purposes for which the monument was created, the provisions of § 13.40(b) (1) and (2) of this part, and other applicable Federal law, the taking of fish and wildlife within an Alaska National Monument by local rural residents for subsistence uses. At such time as the Alaska Area Director determines that the State of Alaska has enacted and implemented laws which are consistent with the requirements of this paragraph, such State laws, unless and until repealed, shall supersede the provisions of this subpart which authorize the taking of fish and wildlife within the Alaska National Monuments for subsistence uses and shall be incorporated by reference as a part of these regulations.

(b) The Alaska Area Director shall monitor the State's regulation of the taking of fish and wildlife by local rural residents for subsistence uses. If the Alaska Area Director determines that the State has failed to establish a regulatory program which meets the requirements of paragraph (a) of this section, then the Alaska Area Director shall notify the State and, after consultation with the appropriate State authority and informal public hearing in the affected vicinity, indicate those changes necessary to bring the State's regulatory program into compliance with the requirements of paragraph (a) of this section.

(c) If, after a reasonable opportunity, the State fails to make the changes indicated by the Alaska Area Director pursuant to paragraph (b) of this section, the Alaska Area Director shall impose such restrictions as he/she deems necessary to bring the State's regulatory program into compliance with the requirements of paragraph (a) of this section. Such restrictions may include regulations governing methods and means of take, access, season lengths, bag limits, and harvest quotas, and may, in situations involving the taking of fish, also include the closure of all or part of the affected monument to all consumptive uses of a particular species except subsistence uses by local rural residents.

(d) The Director of the National Park Service shall afford the State an opportunity to appeal such restrictions or closures imposed pursuant to the provisions of paragraph (c) of this section. Within thirty days after receipt

of notice of such appeal, the Director shall afford the State an informal public hearing, and within thirty days after such hearing, shall make the final decision on such appeal. Unless the Director determines that the State is not in compliance with the requirements of paragraph (a) of this section, the Director shall revoke the restrictions or closures imposed by the Alaska Area Director. If the Director determines that the State is not in compliance with the requirements of paragraph (a) of this section, the restrictions imposed by the Alaska Area Director shall continue until such time as the State takes appropriate and timely action or the Alaska Area Director determines, after notice and informal public hearing in the affected vicinity, that the need for the restrictions has otherwise been ameliorated.

(e) Nothing in this section shall be deemed to affect the superintendent's closure authority set forth in § 13.50 of this part.

§ 13.45 Prohibition of aircraft use.

Notwithstanding the provisions of § 13.11 of this part, the use of aircraft for access to lands and waters within an Alaska National Monument for purposes of subsistence hunting and fishing within the monument is prohibited, except as specifically permitted, in extraordinary cases where the Superintendent determines that no reasonable alternative exists, by local rural residents who permanently reside in designated communities as set forth in Subpart C of this part.

§ 13.46 Use of snowmobiles and motorboats for subsistence activities:

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles and motorboats by local rural residents for subsistence hunting, fishing, and gathering activities is permitted within the Alaska National Monuments except at those times and in those areas restricted or closed by the superintendent. In determining whether to restrict the use of snowmobiles or motorboats for subsistence activities or to temporarily or permanently close a route or area to snowmobile or motorboat use for subsistence activities, the superintendent shall be guided by the criteria contained in Section 3 of Executive Order No. 11644 (37 Fed. Reg. 2877) and shall consider factors such as effects on public health and safety, soil, vegetation, fish or wildlife, fish or wildlife habitat, endangered or threatened species or their habitats, historic or scientific values, and other management considerations necessary

to ensure that snowmobile or motorboat use is compatible with the purposes for which the monument was established. Except in emergency situations, no restrictions or closures shall be imposed without a prior informal public hearing in the affected vicinity. In the case of emergency situations, restrictions or closures shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the superintendent establishes, after notice and an informal public hearing, that such extension is justified according to the criteria and factors set forth in this paragraph. Notice of the proposed or emergency restrictions or closures shall be published in at least one newspaper of general circulation within the State, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions or closures shall be designated on a map which shall be available for public inspection at the office of the superintendent of the affected monument, the post office or postal authority of every affected community within or near the monument, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(b) Motorboats and snowmobiles permitted for subsistence uses in accordance with this section shall be operated in compliance with applicable State and Federal law and in such a manner as to prevent waste or damage to the Alaska National Monuments or any parts or values thereof. They shall not be operated in any manner that will result in the herding, harassment, hazing, or driving of wildlife for hunting or other purposes.

(c) Recreational snowmobile use by local rural residents may be permitted in accordance with § 13.20 of this chapter, and recreational motorboat use by local rural residents may be permitted in accordance with § 13.16 of this chapter.

§ 13.47 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in compliance with applicable State law as well as applicable Federal law, including the provisions of § 2.13 of this chapter; provided, however, that local rural residents in the Alaska National Monuments may fish with a net, seine, trap, or spear where permitted by State law.

§ 13.48 Subsistence hunting and trapping.

Local rural residents may continue to hunt and trap wildlife for subsistence uses in compliance with applicable State and Federal law. To the extent consistent with the other provisions of this chapter, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 13.49 Subsistence use of timber and plant material.

Notwithstanding any other provision of this part, the noncommercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in accordance with the specifications of a permit issued by the superintendent of the affected Alaska National Monument if such cutting is determined to be compatible with the purposes for which the monument was established. The noncommercial gathering of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit.

§ 13.50 Closure to subsistence uses.

Notwithstanding any other provision of this part, the superintendent, after consultation with the State and adequate notice and informal public hearing, may close all or any portion of an Alaska National Monument to subsistence uses or take such other measures as may be necessary to provide for the public safety, administration, or to ensure the natural stability and continued viability of one or more populations of fish, wildlife, or plants. If the superintendent determines that an emergency situation exists and that extraordinary measures must be taken to provide for the public safety, or to ensure the natural stability and continued viability of one or more fish, wildlife, or plant population, the superintendent may immediately close all or any portion of an Alaska National Monument to the subsistence uses of the particular resource population, or take such other measures as may be necessary. Such emergency closure or measures shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the superintendent establishes, after notice and informal public hearing, that such extension is necessary for reasons justifying any type of closure pursuant to this section. Notice of administrative actions and the reasons justifying such

actions taken pursuant to this section shall be published in at least one newspaper of general circulation within the State, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity.

Subpart C—Special Regulations— Specific National Monuments in Alaska

§ 13.70 Aniakchak National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Aniakchak National Monument:

Chignik.
Chignik Lagoon.

§ 13.71 Bering Land Bridge National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Bering Land Bridge National Monument:

Buckland.
Deering.
Shishmaref.
Whales.

(2) *Off-Road Vehicles*. The use of off-road vehicles for purposes of reindeer grazing may be permitted in accordance with permit a issued by the superintendent.

§ 13.72 Cape Krusenstern National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Cape Krusenstern National Monument:

Kivalina.
Kotzebue.
Noatak.

§ 13.73 Denali National Monument.

Minchumina.
Telida.

§ 13.74 Gates of the Arctic National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Gates of the Arctic National Monument:

Alatna.
Allakaket.
Ambler.

Anaktuvuk
Betles
Kobuk
Shungnak.

(2) *Aircraft Use*. In extraordinary cases where no reasonable alternative exists, local rural residents who permanently reside in the following location(s) may use aircraft for access to lands and waters within the monument for subsistence purposes in accordance with a permit issued by the superintendent:

Anaktuvuk

§ 13.75 1978 Enlargement of Glacier Bay National Monument.

§ 13.76 1978 Enlargement of Katmai National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for the 1978 Enlargement of Katmai National Monument:

Egigik.
Igiugik.
Kakhonak.
Levelook.

§ 13.77 Kenai Fjords National Monument.

(a) *Subsistence*. Subsistence uses are prohibited in, and provisions of Subpart B of this part shall not apply to, Kenai Fjords National Monument.

§ 13.78 Kobuk Valley National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Kobuk Valley National Monument:

Ambler.
Kiana.
Kobuk.
Noorvik.
Shungnak.

§ 13.79 Lake Clark National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Lake Clark National Monument:

Nondalton.
Port Alsworth.

(2) *Subsistence Hunting and Trapping*. The taking of Dall Sheep is prohibited.

(b) *Motorboats*. (1) The operation of motorboats on the following lakes is prohibited: Telaquana Lake, Turquoise Lake, Twin Lakes, Lackbuna Lake, Portage Lake, Kijik Lake, Kontrashibuna Lake.

§ 13.80 Noatak National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Noatak National Monument:

Kivalina.
Kotzebue
Noatak.

§ 13.81 Wrangell-St. Elias National Monument.

(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Wrangell-St. Elias National Monument:

Chistochina.
Chitina.
Copper Center.
Gakona.
Gulkana.
McCarthy.
Mentasta Lake.
Nabesna.
Slana.
Yakutat.

§ 13.82 Yukon Charley National Monument.

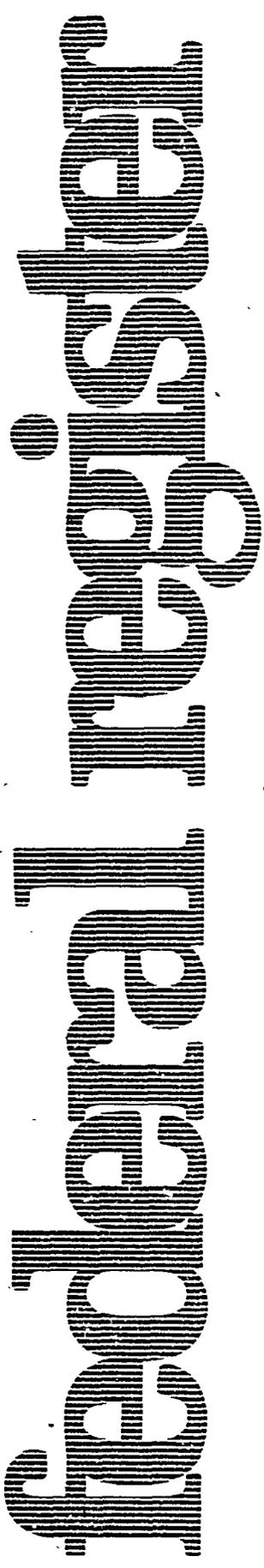
(a) Subsistence. (1) *Resident Zone*. In addition to the lands within the monument, the following communities and areas are included within the resident zone for Yukon Charley National Monument:

Circle.
Eagle.
Eagle Village.

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Thursday
June 28, 1979



Part III

**Department of the
Interior**

Fish and Wildlife Service

**National Wildlife Monuments; General
Management Regulations**

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

[50 CFR Chapter I]

National Wildlife Monuments; General Management Regulations

AGENCY: United States Fish and Wildlife Service.

ACTION: Proposed Rulemaking.

SUMMARY: On February 28, 1979, the United States Fish and Wildlife Service published a Notice of Intent to Propose Rules which solicited public comment on a number of issues to be addressed in the development of comprehensive management regulations for the Becharof and Yukon Flats National Wildlife Monuments in Alaska (44 FR 11247). Having reviewed the public comments received, the Fish and Wildlife Service has prepared draft management regulations for the two national wildlife monuments and is again soliciting public comment with the publication of these proposed regulations establishing a new Subchapter H in Chapter I of 50 Code of Federal Regulations.

DATE: Comments must be received by September 26, 1979.

ADDRESS: Send written comments to: Area Director, United States Fish and Wildlife Service, Department of the Interior, 1011 East Tudor Road, Anchorage, Alaska, 99507.

FOR FURTHER INFORMATION CONTACT: Mr. Clay Hardy, United States Fish and Wildlife Service, Department of the Interior, 1011 East Tudor Road, Anchorage, Alaska, 99507, Telephone (907) 276-3800.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1978, President Carter established the Becharof and the Yukon Flats National Wildlife Monuments in Alaska. (43 FR 57019, 57119). The management responsibility for these two areas was subsequently delegated to the United States Fish and Wildlife Service. Since the national wildlife monuments did not become part of the National Wildlife Refuge System as that system is currently defined, the Fish and Wildlife Service has had to develop new management regulations for the two areas. On December 26, 1978, the Fish and Wildlife Service published emergency, interim regulations governing the administration of the wildlife monuments, pending the development of permanent management regulations (44 FR 60257). Since it was not possible to afford the public an

opportunity to comment on the emergency regulations, they were kept to an absolute minimum in order to minimize their impact upon on-going activities in rural Alaska. Thus many subjects traditionally dealt with in comprehensive land management regulations were not included in the emergency interim rulemaking. The Fish and Wildlife Service clearly stated its intent, however, to address these additional subjects when permanent comprehensive regulations were developed for the two national wildlife monuments.

On February 28, 1979, the Fish and Wildlife Service took the first formal step in the development of those regulations with the publication of a "Notice of Intent to Propose Rules" in the Federal Register. (44 FR 11247). The Notice of Intent solicited public comment on a variety of management issues ranging from the use of off-road vehicles to public hunting and fishing. Public comments received were then to be considered in the preparation of proposed regulations for the two wildlife monuments. Although a thirty day public comment period was originally provided, it was extended one week in light of difficulties encountered transmitting copies of the Notice of Intent to Alaska.

Over 1900 public comments were received by the Fish and Wildlife Service in response to the Notice of Intent. Of these, approximately 1800 comments were standardized comment forms clipped out of an Alaskan newspaper which expressed disapproval of a subsistence hunting and fishing program for the national wildlife monuments which did not apply to all Alaska residents. The remaining 121 comments came from the following sources: 95 comments from private individuals, 17 comments from various private or public interest groups, 5 comments from governmental agencies and 4 comments from private business corporations or companies.

After careful consideration of the comments received on the Notice of Intent, the Fish and Wildlife Service is now publishing proposed comprehensive management regulations for the Yukon Flats and Becharof National Wildlife Monuments and is again soliciting public comment on the content of this proposal. The reader is advised that the National Park Service has also published in this issue of the Federal Register proposed management regulations for the thirteen new national monument areas in Alaska to be administered by that agency. Because the Fish and Wildlife Service and the

Park Service have different management authorities for their respective areas, the proposed regulations for the two agencies differ in some important areas. Furthermore, since the two national wildlife monuments are not part of the National Wildlife Refuge System, the Fish and Wildlife Service has had to develop a much more comprehensive set of management regulations for those two areas than the Park Service has had to develop for the new monument areas under its jurisdiction. This is due to the fact that the Park Service monuments are already covered by the existing general management regulations for the National Park System. Thus while the Park Service has only had to focus its attention on proposing a limited number of changes to the existing Park Service regulations, the Fish and Wildlife Service has had to develop a complete set of comprehensive land management regulations. All of this is brought to the reader's attention so that the proposals of the two agencies may be kept separate and distinct in the preparation of public comments. This separation is all the more important because the two agencies have worked closely together in perfecting mutually acceptable language on many issues. The reader will therefore find parts of the two proposals identical in nature which could lead to confusion in the preparation of public comments.

Analysis of Substantive Comments

The majority of the public comments received did not mention specific activities, but generally stated that the interim regulations should be retained on a permanent basis or that all or most of the on-going public activities within the monuments should be allowed to continue. Of those comments which did address specific land management issues, most were limited to a general statement of support or opposition for the particular issue. A few of the public comments, however, were more detailed and provided either recommended regulatory language or a substantive analysis of the factors supporting a preferred approach. The following is a brief summary of some of the substantive comments received by the Fish and Wildlife Service. The issues are generally discussed in the order in which they were presented in the Notice of Intent.

General Regulatory Approach

Three alternative regulatory approaches were submitted to the public for comment. The three consisted of the permanent retention of the emergency interim regulations, the uniform

adoption of the existing National Wildlife Refuge System regulations or the adoption of the Refuge System regulations in a modified form reflecting the unique conditions in Alaska. Almost without exception, the substantive comments on this issue supported the last alternative. Such diverse interest groups as the State of Alaska, major environmental organizations, the Alaska Section of the American Society of Civil Engineers, trappers association, and representatives of the mining industry supported the modification and selective application of the existing general Refuge System regulations. The Fish and Wildlife Service agrees with these recommendations and has modified the existing general refuge regulations for this proposed rulemaking. This is based upon the conclusion that the emergency interim regulations, while adequate for providing short term protection for the monuments, are not comprehensive enough to serve as the management framework on a permanent basis.

The Compatibility Test—Under the National Wildlife Refuge System Administration Act of 1966, the Fish and Wildlife Service may permit an activity or use to occur within a wildlife refuge so long as it is compatible with the purposes for which the refuge was established. The Notice of Intent asked the public whether this "compatibility" test should be applied to public activities within a national wildlife monument. All of the substantive comments received on this issue supported the adoption of the compatibility test although some of the comments differed on how the test should be applied.

One comment appeared to make a distinction between existing versus future public uses and stated that all existing public uses should be allowed to continue unless specifically prohibited by the terms of the underlying Presidential Proclamations and public land orders. The Service believes that this is a distinction without merit and unwarranted under the terms of the Presidential Proclamations. The mere fact that a particular activity was occurring on public domain lands prior to their designation as a national wildlife monument does not automatically guarantee that the continuation of that activity is compatible with the purposes for which the monument was established or the provisions of the Antiquities Act. Public domain lands are managed on a multiple-use basis that may or may not accord the same priority to the historical and scientific values of the monument recognized in an Antiquities Act

proclamation. With the exception of valid existing rights, each type of activity within a national wildlife monument must be scrutinized for its compatibility with the preservation of the values noted in the Proclamation. In fact, the vast majority of public activities occurring within the Becharof or Yukon Flats National Wildlife Monuments presently appear to be able to satisfy the compatibility test. Thus it is proposed in this rulemaking that activities such as sport hunting, camping, and the use of motorboats and snowmobiles be allowed to continue, subject to reasonable regulation. The independent review and approval of all of these activities under the compatibility test, however, is, conceptually, quite a different matter from a blanket "grandfathering" of all past activities within the monument as suggested by the public comment noted above.

Additional substantive comments on the compatibility test split rather evenly as to whether permanent modifications and structures such as roads, visitor facilities or habitat manipulation could ever be deemed to be compatible with the purposes for which the monuments were established. Thus one environmental group suggested that the construction of all-weather roads and visitor centers would be incompatible with this objective and that any increase in wildlife production resulting from habitat manipulation would be marginally cost-efficient given the present high productivity of the monuments.

Expressing a contrary view, the State of Alaska, the Alaska Section of the American Society of Civil Engineers and a law firm representing a mining company stated that permanent structures and modifications should not automatically be deemed to be incompatible with the purposes for which the monuments were established.

The Fish and Wildlife Service believes that there is a middle ground between these two opposing positions. It must be remembered that the compatibility test is premised upon the belief that proposed activities should be reviewed on a case-by-case basis. While some types of activities may be so disruptive as to invariably fail the compatibility test, nevertheless, each proposal should be afforded the opportunity to be reviewed individually under that standard. Thus, the argument that all permanent structures are *per se* incompatible with the purposes for which the monument was established attributes a rigidity to the review process which is actually the antithesis

of the case-by-case approach of the compatibility test.

On the other hand, the Fish and Wildlife Service fully recognizes the fact that the Monument Proclamations stressed the scientific and historic values associated with the uniquely expansive, natural and untrammelled habitats of the two national wildlife monuments. At a minimum, the tone of the Proclamations dictates a cautious "go slow" approach to the approval of permanent structures or modifications which have lasting impacts upon the ecosystem of the monuments. While various individual projects may in-and-of-themselves be compatible with monument goals, their net cumulative effects may result in the erosion and irretrievable loss of the very values the Monument Proclamations sought to protect. In order to avoid this loss by attrition, the Fish and Wildlife Service intends to develop comprehensive management plans for the two national wildlife monuments and will disfavor permanent construction or manipulation projects pending completion of those plans. The public will be provided with subsequent opportunities to participate in the planning process. This approach is not only consistent with the intent of the land use planning requirements for the Wildlife Refuge System in HR-39 that passed the House of Representatives on May 16, 1979, it is also dictated by a prudent desire to avoid the land management mistakes of the past. This philosophy has been incorporated into various sections of the proposed regulations. Thus Section 96.51 would require a prior analysis of concessionaire opportunities on private or State owned lands before such services would be approved for Federal lands within the monuments. In this fashion, the Service intends to preserve as many management options as possible for the land use planning process and encourage local enterprises to meet the needs for public services and facilities where appropriate.

Public Access—Public comments received on the issue of access on monument lands generally fell into two categories: those which focused on specific methods of transportation, such as airplanes or snowmobiles, and those which focused on particular needs for transportation, such as subsistence hunting or mining. Each of these categories will be discussed independently.

1. **Airplanes:** All substantive comments received which discussed the use of airplanes recommended that their use be allowed to continue within a national wildlife monument. These

comments stressed the lack of transportation alternatives in rural Alaska and the limited impacts that traditional airplane use has had on the environment of the wildlife monument areas. Representative of these comments, the Wilderness Society noted that airplanes are a primary and traditional means of access in Alaska, and while recommending that such use and access be allowed to continue within national wildlife monuments, the Society nevertheless urged the Fish and Wildlife Service to retain discretionary authority to regulate, and in some situations prohibit, airplane use when necessary to protect the values for which the monuments were established. The Service believes the recommendations of the Wilderness Society and those received from many private individuals strike a reasonable balance between continued airplane use and resource protection. The Service is thus proposing to leave the national wildlife monuments open to airplane use except for areas specifically closed for reasons of resource protection or other management considerations set forth in Section 96.21.

2. Motorboats—The public comments received on the use of motorboats paralleled those received on the use of airplanes. Generally people noted the importance of motorboat travel given the roadless nature of most of rural Alaska. The comments also noted that as a general rule, the environmental impacts of motorboat travel within the monuments have been minimal. The Service agrees with these comments and is proposing the same regulatory approach for motorboats that it has proposed for aircraft. That is, motorboat travel would be allowed to continue unless specifically prohibited in specially designated areas.

(3) Off-road vehicles—Snowmobiles—Comments received on off-road vehicle use focused on two different categories of vehicles: snowmobiles and off-road vehicles other than snowmobiles. Comments regarding snowmobiles generally supported the continuation of their use where such use was traditional and established. This position was supported by groups as diverse as the Wilderness Society, the International Snowmobile Industry Association, the Fairbanks Environmental Center, the Fur Trappers of America and the Friends of the Earth, although the latter organization appeared to argue for greater restrictions on snowmobiles used for recreational purposes than for access to inholdings or for other traditional activities which are allowed in monuments. As with motorboats and

airplanes, the comments supporting a continuation of snowmobile use stressed the lack of alternative means of transportation in rural Alaska and reasoned that appropriate regulations on seasonal use, adequate snow cover, and so forth could prevent damage to the terrain of the monuments.

The Fish and Wildlife Service recognizes the merit in these comments and is thus proposing to leave the wildlife monuments open to snowmobile use unless specifically prohibited in specially designated areas. The Service believes that this proposal is consistent with the criteria and requirements of Executive Order No. 11644 regarding the use of off-road vehicles on public lands (37 FR 2877). The Service notes that the Yukon Flats area not only possesses large areas of relatively flat bottomland conducive to snowmobile use, but also a sizeable number of inholders dependent on snowmobile transportation during the winter. Given the environment of both of the wildlife monuments with lengthy periods of snow and ice cover, the Service has concluded that the ground cover is adequate enough to support general snowmobile use during a large part of the year without adversely affecting the natural resources within the monuments. It is true that the amount of snow received in the Yukon Flats area is much more extensive than in the Becharof National Wildlife Monument, but this difference would be reflected in the special regulations for each monument establishing seasons for general snowmobile use. Thus, special regulations can be fashioned which reconcile the pressing need for continued snowmobile use for access and transportation purposes, while protecting the soil, vegetation and scenic natural resources bases of the monuments.

It is also the belief of the Service that allowing general snowmobile use will not conflict with either other uses or the public safety of other users of the monuments. Snowmobiles are often an integral part of rescue operations in rural Alaska. Furthermore, the vast acreages of land involved and the relatively limited degree of human activity within the monuments significantly reduce the likelihood that accidents or injuries would occur to other users of the monuments, due to a liberal policy on snowmobiles. As for conflicts with other existing uses of the area, apart from snow shoeing, cross-country skiing, dog sledding or travel by aircraft, very little public activity occurs within the monuments during the winter months that is not in some way dependent upon snowmobile use. The

Service believes that the closure criteria proposed in Section 98.31(a) are more than adequate to accommodate snowmobiling to other preferred uses within the monument when the need arises.

The Service also does not anticipate that its proposal on snowmobile use will result in any noticeable harassment of fish or wildlife or the significant disruption of their habitat. Not one of the substantive comments received on the use of snowmobiles highlighted this as a potential problem. If any unexpected problem of this sort were to arise, the monument manager would have the authority under Section 98.31(a) to close immediately an area to further snowmobile use. This emergency closure authorization is mandated by the requirements of a second Executive Order on off-road vehicle use which was published on May 25th, 1977. See Executive Order No. 11989 (42 FR 26959). In addition to emergency closures of this nature, the monument manager would be required under Section 98.31(a) to take into account the location of sensitive habitat areas in establishing general restrictions or closures on snowmobile use. Furthermore under Section 98.31(f), the operation of any motor vehicle, including snowmobiles, in a manner which results in the harassment of wildlife is prohibited. Thus the Service believes that in the context of Alaskan wildlife monuments, the enforcement of this regulation in isolated incidents of harassment is a more equitable management approach to the use of snowmobiles than their general prohibition. In summary, the underlying premise to the Service's proposal for snowmobile use is that given the winter environment and the limited amount of human activity within the Alaskan wildlife monuments, neither the natural, aesthetic nor scenic values of the areas would suffer from allowing snowmobile use for access and transportation to continue except where specifically prohibited.

(4) Off-road vehicles other than snowmobiles—While the substantive comments almost universally recommended leaving the monuments open to snowmobile use, they either opposed, or failed to mention specifically, the use of all-terrain vehicles other than snowmobiles. Representative of this split in opinion were the comments from an Alaskan environmental organization. While recommending the continuation of snowmobile use, the organization stated that all other off-road vehicles should be banned, at least from April through October. In fact, a trappers association

provided the only substantive comment specifically supporting the continued use of off-road vehicles other than snowmobiles, and even that endorsement was somewhat qualified by the observation that, "Off-road vehicles such as tracked-rigs might need to be regulated in certain areas at some later time."

Perhaps the most detailed analysis of the issue was provided by the International Snowmobile Industry Association. The Association urged the Service not to make a collective assessment about the environmental impacts of the various types of off-road vehicles. Rather, the Association presented persuasive evidence suggesting that snowmobiles should be regulated differently from other off-road vehicles. In addition to the protection afforded the subnival microclimate by the snow or ice cover snowmobiles operate upon, the Association noted that a snowmobile and rider produce no more than one-half pound per square inch in downward pressure while other forms of off-road vehicles exert three times as much pressure as a snowmobile (1.5 psi) and 4-wheel drive vehicles and riders exert close to sixty times as much pressure (30 psi).

In light of this information and the potential for habitat degradation which could result from uncontrolled use, the Service is proposing in Section 98.31(b)(1) to prohibit the use of off-road vehicles other than snowmobiles except for areas where such use would be specifically allowed. This "closed unless opened" philosophy is the reverse of the Service's "open unless closed" approach for snowmobiles. In determining which areas to open within a wildlife monument to off-road vehicles other than snowmobiles, the Monument manager would be required to address, among other things, the various criteria set forth in Executive Order No. 11644. Thus, while it is probable that some areas within each monument would be eventually opened for such vehicular use, no area or trail would be proposed unless the monument manager concluded that the criteria in Section 98.31(b)(1) could be satisfied.

(5) *Access generally—inholders and subsistence uses.* In addition to addressing particular methods of transportation, such as airplanes or snowmobiles, numerous public comments focused on specific reasons why such vehicular use across monument lands was essential. The two most commonly cited reasons noted the need for access to private or State owned property and the need for access for subsistence activities. An analysis of

access needs for subsistence activities will be examined in a later discussion on subsistence. As for the problem of access to privately or State owned property interests, the Service believes that its "open unless closed" approach for airplanes, motorboats and snowmobiles adequately addresses most of the needs of affected property owners. Thus, as an example of providing reasonable access to an inholder, a person could get to a Native allotment or homestead site by using either of those three types of vehicles. Furthermore, if the need ever arose to close part of a wildlife monument to such vehicular use, accommodations would be made in the special closure regulations to minimize the impacts upon affected property owners.

The Service recognizes that its "closed unless opened" approach for off-road vehicles other than snowmobiles could work a hardship on property owners requiring off-road surface transportation during the late spring or summer months. Instead of formally opening entire areas to such vehicular use in order to accommodate a few property interest owners, Section 98.31(b)(2) is proposing to authorize the issuance of a limited special use permit which would allow for the operation of off-road vehicles other than snowmobiles along specially designated routes. The routes and methods of access would be limited to those traditionally used by the property interest owner unless the monument manager determined that a reasonable alternative existed which would be less damaging to the environmental values of the monument. If the property interest owner subsequently desired to expand beyond off-road vehicle travel and construct a permanent structure such as a road, and bridges, he or she could only do so after being granted a formal right-of-way or easement under Part 100 of this regulatory proposal.

In summary, the Service has developed a series of access proposals which would allow property owners access to their lands by airplane, snowmobile or motorboat without a permit, and by off-road vehicles other than snowmobiles pursuant to the provisions of a limited special use permit. As for property interest owners necessitating the construction of permanent encumbrances upon monument lands such as roads or bridges, such owners would have to apply for a formal easement or right of way pursuant to the provisions of Subpart B of Part 100. The only exception to this approach concerns

access for mining operations. As discussed in greater detail in a subsequent part of this preamble, pending publication of permanent comprehensive regulations on mining, access for purposes of conducting mining operations shall be governed exclusively by the provisions of the emergency mining access regulations published on March 14, 1979 (44 FR 15500).

The utilization of natural resources— As a general rule, the public comments received on the utilization of natural resources reflected the writers' attitudes on the compatibility test. Thus, those respondents who argued for a narrowly interpreted and stringently applied compatibility test usually recommended against the utilization of the natural resources of the wildlife monuments. Similarly, those public comments supporting the compatibility test as traditionally applied to activities with the Wildlife Refuge System did not oppose the utilization of a monument's natural resources as long as such uses were compatible with the purposes for which the monument was established.

For the reasons set forth in the earlier discussion of the compatibility test, the Service is proposing to authorize in Section 100.1 the public or private economic use of the plant or inanimate natural resources of the wildlife monuments subject to two limitations. First, such use must be compatible with the purposes for which a monument was established, and second, it must contribute to, or be related to, the administration of the monument. The Service believes that the caution inherent in this second proviso is warranted pending completion of the comprehensive management plans for each monument. Upon completion of those plans, the Service may find that the second requirement could be relaxed somewhat without adversely impacting the natural resources of the monuments. Until that time, however, the language in Section 100.1 will ensure against the haphazard utilization of each monument's plant and inanimate resources.

Recreational activities— All of the substantive comments which addressed this issue supported the continuation of on-going recreational activities within the wildlife monuments as long as they remained compatible with the purposes for which the monuments were established. Camping was frequently mentioned as a recreational activity that was compatible with monument values, although groups as diverse as the Committee for Humane Legislation, Inc. and the Interior Alaska Trappers

Association recommended against the development of permanent campsites. Another limitation suggested by a major environmental organization concerned the imposition of restrictions on camping around peregrine falcon eyries.

The Fish and Wildlife Service agrees with the recommendations supporting the continuation of recreational activities within the monuments. After reviewing the various types of such activities which are on-going within the wildlife monuments, the Service has concluded that all presently appear to be practicable and compatible with the purposes for which the monuments were established. Thus Section 97.31 proposes to allow these activities within the wildlife monuments as appropriate secondary or incidental uses.

Regarding the development of permanent campgrounds, while not totally ruling out the possibility of limited facilities of this sort at some time in the future, no such campgrounds would be established prior to the completion of the comprehensive plan for each monument and a thorough review had been conducted on the anticipated impacts upon the monument from this concentrated form of camping. It is, therefore, accurate to state that permanent camp grounds will not be built within the wildlife monuments within the foreseeable future.

Finally, the Fish and Wildlife Service recognizes the need to exercise its regulatory authority over camping so as to ensure that the continued existence of the endangered peregrine falcon is not jeopardized nor its eyries adversely modified or destroyed. Section 96.21 has thus been modified to expressly include endangered and threatened species conservation within the criteria to be considered in curtailing public activities such as camping within the wildlife monuments. The Service, therefore, intends to include in the first set of special regulations developed for the Yukon Flats National Wildlife Monument any restrictions on public use deemed appropriate to conserve the peregrine falcon and its habitat.

Abandoned and unattended property—The Fish and Wildlife Service received few substantive comments on the issue of abandoned property within the wildlife monuments. Only a comment from an animal preservationist organization recommended immediate removal of abandoned property within the monuments. Most comments from private individuals and native and environmental organizations, however, stressed the importance of food and equipment caches to the rural way of life and travel in Alaska.

Perhaps the difference between these opposing points of view is one of semantics. It is safe to assume that most people would favor a regulatory policy which prohibits the permanent abandonment of personal property within the wildlife monuments; few would want these pristine areas gradually turned into a refuse pile of discarded junk. On the other hand, most people would also recognize the legitimate role that temporarily unattended food and equipment caches play in the rural way of life in Alaska. In fact, the great distances between inhabited areas and supply centers almost mandates that caches of this nature be used. Thus the difference between abandoned property and temporarily unattended property is one of intent—the property owner in the first situation having evidenced by actions or otherwise an intent to forego any future use of the abandoned piece of personal property involved.

While recognizing that enforcement programs are inherently difficult whenever intent is at issue, the Fish and Wildlife Service nevertheless believes that the wildlife monument regulations must make a distinction between temporarily unattended and permanently abandoned personal property. Section 98.92, therefore, proposes to allow personal property to be left unattended for up to nine months before it would be deemed to be abandoned and subject to confiscation. In effect, this accords personal property within a wildlife monument a nine month presumption that it is only temporarily unattended. A nine month period was chosen because it was of sufficient length to encompass most activities that occur within seasonal cycles in Alaska. If a monument manager concluded that a particular piece of personal property appeared to be abandoned, the nine month time period could be started through the attachment of some sort of notice to the property stating that the monument manager should be contacted by the owner within nine months of the date of the notice or the particular piece of property would be impounded. Section 98.92 would also empower the monument manager to establish additional restrictions through special regulations if the manager concluded in certain situations that either the nine month period of grace was too long or that unattended personal property in particular areas had become a management problem which needed additional controls.

Occupancy of cabins—Although the public response on illegal cabins was

probably as diversified as it was on any issue, no substantive comments called for the immediate removal of these cabins. Most comments stressed that the crucial factors should be whether a cabin was compatible with the purposes for which a monument was established. If the cabin was compatible, then various flexible arrangements were recommended which would allow for a continuation of the use of the cabin but which stopped short of conveying fee title or permanent rights to the occupant. Most public comments did not appear to recommend that this approach be applied to illegal recreational or private vacation homes or resorts, but rather limited it to either full time occupants or persons like local trappers who periodically used the cabins as part of their subsistence way of life. Representative of this recommended overall approach are the following comments from a major environmental organization:

In a number of the new monuments, continuation of traditional Alaska ways of life is indeed an important purpose of federal administration. In a number of cases, continued occupancy on lands which do belong to the government will be of benefit not only to local residents, but also to the many visitors who come to see and to experience Alaskan ways of life which have assumed a meaning for the entire nation
* * *

At the same time, it is important that the proposed rules give clear authority to monument management to remove lodges, summer residences and other forms of occupancy which is both illegal and in conflict with the purposes of the monument. In general, an appropriate criterion would be as follows: land which is being occupied on a year-round basis by a local resident, in a manner which is unobtrusive and/or compatible with public use of the monument and preservation of natural values should be permitted. Illegal vacation homes, luxury resorts and the like should be removed promptly. Facilities required for continued commercial activities which are compatible with monument purposes such as simple shelters should be afforded a permit providing for temporary occupancy, subject to review for compatibility with the master plan developed for each monument.

Although the actual number of local rural residents using the natural resources of the wildlife monuments is relatively small, cabin use is viewed as being critical to the opportunity for continuation of their lifestyle. The Service is, therefore, proposing in Section 97.35 a regulatory approach to illegal cabins which parallels in large part the recommendations from the environmental organization quoted above. Provided that the cabins satisfied the compatibility test, the occupancy of

existing cabins would be allowed to continue pursuant to nontransferable, five year renewable special use permits. A somewhat more restrictive approach would be applied to the construction of new cabins: a new cabin could be authorized pursuant to the same type of non-transferable, 5 year renewable permit, provided that in addition to satisfying the compatibility test, the use of proposed cabin would be either directly related to the administration of the monument or necessary to provide for the continuation of an on-going activity which was otherwise allowed within the monument and for which no other reasonable cabin site on nonfederal lands was available. Thus, for example, it would be possible to authorize the construction of a new cabin as a replacement for one previously used for subsistence activities but which had collapsed or been destroyed. No permits would be issued to authorize either the construction of new cabins for private recreational purposes or the occupancy of existing cabins built for such purposes. Furthermore, all permit applicants would be required to disclaim any interest in the real property upon which the cabin stands or would be constructed and all such cabins would remain the property of the Federal Government. The Fish and Wildlife Service is thus proposing what it perceives to be a conservative policy on illegal cabins that is nevertheless flexible enough to avoid imposing hardships upon the local rural residents of the monument areas who require the occupancy and use of cabins for shelter, safety and the opportunity for maintenance of their existing way of life.

Easements and Rights of Way—Given the traditional complexity of comprehensive easement and rights-of-way regulations, it was not surprising that few substantive comments were received on this subject. It is also possible that some persons who submitted comments intended their analysis of the compatibility test to apply with equal force to the granting of easements and rights-of-way. Of the comments that were received, most recommended that comprehensive regulations be established to govern the granting of these important property interests. In particular, the State of Alaska and a law firm representing a major mining interest indicated their support for adopting the regulatory approach for easement and rights-of-way currently in force for the National Wildlife Refuge System. See 50 CFR Part 29. Taking a more conservative position, a major environmental organization

recommended that except to private or State inholdings, no rights-of-way should be granted pending completion of Congressional action on the Alaska lands legislation.

The Fish and Wildlife Service is proposing in Subpart B of Part 100 a regulatory approach which it believes responds to both points of view. Except for minor modifications deemed necessary to reflect its application to wildlife monuments instead of refuges, Subpart B of Part 100 merely restates the existing general wildlife refuge regulations for easements and rights-of-way. Because of the complex technical issues which must be addressed in granting property interests of this nature, Part 100 is the lengthiest segment of the proposed regulations. It must also be remembered, however, that during the earlier discussion of the compatibility test, the Service noted that it would disfavor authorizing projects which would result in the construction of permanent structures or habitat modifications, including the granting of easements or rights-of-way, prior to the completion of the comprehensive plans for each wildlife monument. Since the development of these plans will be a time consuming process, it is likely that Congress will have completed its work on the Alaska lands legislation before the comprehensive planning effort is finished. Thus while proposing to incorporate for the wildlife monuments the existing refuge regulations on easements and rights-of-way, the Fish and Wildlife Service considers it very unlikely that such property interests would be granted in the immediate future.

Firearms—Although the use and possession of firearms was not an issue presented in the Notice of Intent, numerous comments were received on the subject. Many of the comments from private individuals stressed the need for allowing firearms within the wildlife monuments for reasons of personal safety. They also pointed out that subsistence and sport hunting activities may require the possession and use of these weapons. The Fish and Wildlife Service recognizes that firearms are carried by most residents of rural Alaska, especially for protection against bears. The Service is therefore proposing in Section 98.42 to allow the possession, use and transportation of firearms within wildlife monuments for personal protection and for hunting in accordance with State and Federal law. The monument manager would retain the authority, however, to designate zones around such areas as visitor

centers where the use of firearms would be prohibited.

Mining—The Fish and Wildlife Service originally had intended to include draft mining regulations governing access and development within this proposed rulemaking. Therefore, public comment had been solicited on the subject of mining in the Notice of Intent. Due to the complex and technical nature of the various proposed alternative sets of mining regulations currently before the Service, however, it has not been possible to complete the review of this issue for inclusion within this proposed rulemaking. The Service intends to issue a separate proposed rulemaking within the next few weeks dealing solely with the issue of mining within the wildlife monuments. The public comments on mining which were received in response to the Notice of Intent will be discussed in that subsequent rulemaking. The mining regulations will eventually be located in a new Part 107 of volume 50 of the Code of Federal Regulations. For purposes of this proposed rulemaking, the Service is merely noting that Part 107 on mining is "reserved".

Since the mining regulations will be developed on a later timetable than the rest of the management regulations in the present rulemaking, it is unlikely that both sets of regulations will be finalized at the same time. Because the existing emergency mining access regulations published on March 14, 1979 (44 FR 15500) will continue to be in effect until they are replaced with the comprehensive mining regulations in Part 107, §§ 98.14, 98.31(b)(2) and 98.63 in this proposed rulemaking have been modified accordingly to cross-reference both sets of mining regulations, depending on whichever one is in effect.

The nonsubsistence taking of fish and wildlife—The taking of fish and wildlife within national wildlife monuments for subsistence and nonsubsistence purposes generated many diversified comments. The Fish and Wildlife Service includes within the concept of "nonsubsistence" taking of fish and wildlife sport hunting and fishing and commercial fishing and trapping. The subsistence taking of fish and wildlife will be discussed in the next section.

The clear majority of comments received from private individuals supported the continuation of nonsubsistence taking of fish and wildlife in accordance with applicable State and Federal law. Those individuals expressing opposition to such nonsubsistence takings generally came from either subsistence users in rural Alaska who didn't want additional

competition in harvesting the fish and wildlife resources of the monuments or from persons in the Lower 48 States who indicated total opposition to all forms of taking fish and wildlife. A national animal preservation organization and an Alaska Native association from Kotzebue also argued against nonsubsistence takings for the differing reasons states above. On the other hand, comments from other rural Alaska and environmental organizations supported nonsubsistence taking as long as sound management principles were employed to protect the resources and subsistence was considered the first priority consumptive use. This position was also implicitly endorsed by the State of Alaska which noted that such a priority was provided for under current State law.

After reviewing these various comments, the Fish and Wildlife Service has concluded that the nonsubsistence taking of fish and wildlife should be allowed to continue within the national wildlife monuments as long as it remains compatible with the purposes for which the monuments were established and that such taking is from fish and wildlife populations which are surplus to a balanced conservation program. The Service believes that those who are opposed to any taking of fish or wildlife within the monuments interpret too narrowly the intent behind the Presidential Proclamations. Among other things, the Proclamations recognized the unique scientific values and opportunities which existed due to the presence of healthy populations of fish and wildlife and their ecological relationship to vast expanses of habitat left relatively untouched by man. The maintenance of those healthy populations of fish and wildlife, however, is not dependent upon a complete prohibition against hunting or fishing.

The Presidential Proclamations themselves recognized this fact when they expressly authorized the Secretary of the Interior to issue such regulations as were appropriate to regulate the opportunity for sport hunting within the two national wildlife monuments. If the President has considered regulated taking activities like sport hunting to be the antithesis of monument wildlife resource preservation, he would have never have included these regulatory authorizations within the wildlife monument Proclamation.

Based upon a review of available biological information, the Fish and Wildlife Service has determined that the surplus numbers of fish and wildlife utilizing the wildlife monuments are

such that the taking of such fish and wildlife in accordance with the present State hunting and fishing regulations would be compatible with the purposes for which the monuments were established.

The Fish and Wildlife Service is thus proposing to allow in Parts 102, 103, 104 and 105 of this rulemaking the opportunity for the continuation of sport hunting and fishing and commercial trapping and fishing within the two wildlife monuments as long as such activities remain practical and compatible with the purposes for which the monuments were established and adequate numbers of surplus animals are available.

The Service intends to monitor the State's regulatory program, however, and reserves the right to modify fish and wildlife harvests, including the complete closure of all or part of a wildlife monument to further takings, when necessary for such reasons as public safety, administration, fish or wildlife management or resource protection.

The nonsubsistence taking of fish and wildlife may be limited at some point if it is determined that the subsistence needs for such resources by local rural residents requires priority use of these resources. This subsistence preference or priority is not only consistent with existing State law but also with the Alaska lands legislation currently before Congress.

Subsistence—It was obvious from the responses received that this was perhaps the most controversial issue submitted for public comment. It was previously noted that the Service received over 1800 standardized form letters after their publication in an Alaska newspaper. These letters stated opposition to any subsistence program for national wildlife monuments which did not apply equally to all Alaska residents. It was also apparent from the public's response that the clear majority of individual comments received from urban areas favored a subsistence regulatory program under State control, while most individual comments from rural areas in Alaska favored Federal control. Comments from the State of Alaska and an Alaska trappers association stressed the need to avoid developing a separate Federal regulatory program on subsistence; leaving that responsibility the sole prerogative of the State. With the exception of one animal preservationist organization which expressed opposition to any subsistence program, whether Federal or State, all of the comments received from major environmental organizations supported

the establishment of some sort of Federal subsistence regulatory program for the national wildlife monuments. Most of these organizations urged the adoption of a Federal subsistence program that was modeled after the various versions of HR-39 considered by Congress during the present legislative session. That is, they recommend a regulatory program that would authorize the State to regulate subsistence activities within the monuments in accordance with certain Federal guidelines and subject to Federal monitoring. If problems arose in either the development or maintenance of an adequate State program, the Fish and Wildlife Service would then be responsible for devising a regulatory program of its own which would accord the local rural residents of the wildlife monument areas priority consumptive use of the wild renewable resources of the monuments. These environmental groups were thus recommending a sort of hybrid State/Federal subsistence program premised on State administration and Federal oversight.

This approach was also supported by the Alaska Federation of Natives (AFN). Briefly, the AFN recommended that the Department keep its regulatory proposals consistent with its "d-2" legislative position on subsistence. The AFN also stated that the regulatory proposals should be made applicable to all public lands in Alaska and should recognize subsistence as the highest priority consumptive use. The AFN recommended effective Federal oversight of the State's administration of the subsistence program and urged that the local rural residents of the monument areas be allowed to participate in the administration of the monuments to the maximum extent possible. The AFN also submitted draft regulatory language with their comments which was based upon a selectively edited version of HR-39.

The Fish and Wildlife Service is proposing in Part 106, a regulatory approach which is consistent with the recommendations of the major environmental organizations and most of the suggestions of the AFN. Part 106 is based upon the provisions of various subsistence titles in the Alaska lands legislation. Legislative solutions dealing with subsistence have remained more fluid than the solutions for any other issue. Repeating the pattern of the last Congress, continual modifications and improvements were made in the subsistence titles of competing "d-2" bills, with no one bill containing subsistence language that satisfied every concern of the Administration.

Thus while the subsistence title of the Breaux-Dingell Bill reported out of the Merchant Marine and Fisheries Committee contained many provisions that were deemed desirable, the over-all thrust of the remainder of the bill was unacceptable to the Department and was not supported by the Administration. Conversely, while the version of HR-39 adopted by the House was preferred by the Administration, its subsistence title nevertheless contained various provisions which needed improvement or modification.

Therefore, while using the extensive legislative dialogue on subsistence as the foundation for its proposals, the Fish and Wildlife Service has not felt compelled to adopt exclusively the subsistence provisions of one bill in Congress over all others. The Service has selectively adopted those features of the various "d-2" bills which it believes best reflect the Administration's policies and accommodate its management needs for the wildlife monuments while still abiding with the spirit of the legislative negotiations conducted with the Alaska natives and the State.

The Fish and Wildlife Service also notes in response to certain public comments that the scope of Part 106 applies only to the two national wildlife monuments under its administration. While acknowledging the value of a unified Federal subsistence program for all public lands in Alaska, the Fish and Wildlife Service is limited in its regulatory authority, for purposes of this rulemaking, to the two national wildlife monuments for which it was delegated administrative authority.

The Fish and Wildlife Service was aware, however, that the National Park Service was developing similar management regulations for thirteen additional monument areas in Alaska. In order to maximize coordination and standardize the interpretation of key subsistence concepts and approaches, the two agencies have worked closely together in developing their respective subsistence proposals for the fifteen new Alaska national monuments areas administered by the Department of the Interior. Thus, the subsistence regulations presently proposed by the Fish and Wildlife Service and the National Park Service will apply to the new Interior Department monument areas in Alaska, and do not extend to all of the remaining public lands in State. Such an extension is beyond the jurisdiction and authority of the Fish and Wildlife Service and the Park Service and is outside the scope of this monument management rulemaking.

Undoubtedly the most noticeable difference between a Fish and Wildlife Service administered monument and a National Park Service administered monument is that sport hunting may be allowed in the former but not in the latter. This difference stems from the terms of the specific monument proclamations themselves and the provisions of the Park Service Organic Act 16 U.S.C. 1 *et seq.*

The fact that sport hunting may be allowed within a national wildlife monument administered by the Fish and Wildlife Service is reflected in the only differences in the subsistence proposals of the two agencies. The Park Service must identify and separate out the sport hunter from the local rural resident subsistence user as sport hunters are no longer permitted to take wildlife within a Park Service monument. The most immediate task facing the Park Service, therefore, is the identification of subsistence users through the establishment of local rural resident subsistence zones for each monument. Persons living within such a zone or possessing a special subsistence permit would then be allowed to take wildlife within a particular Park Service monument for subsistence purposes. The introductory parts of the Park Service subsistence proposals establish the administrative mechanism necessary for this identification process.

The Fish and Wildlife Service, on the other hand, is not faced with the problem of separating out sport hunters from subsistence users within the national wildlife monuments at this time. Sport and subsistence hunting may coexist simultaneously within the wildlife monuments as long as the opportunity for meeting the subsistence needs of the local rural residents of the area is adequate. When those needs are not met, the subsistence priority will require the imposition of restrictions on the level of sport harvest.

The Service is aware that the State of Alaska has made significant progress in developing a comprehensive subsistence program based on the authority of SLA 151. As with Part 106, that State statute requires that subsistence uses be recognized as the priority consumptive use of the fish and wildlife resources of the State. After an exhaustive series of public hearings in February and March of this year, the State Boards of Fisheries and Game adopted subsistence policy statements for the State of Alaska and applied those statements in the development of the State's hunting and fishing proposals. These proposals attempted to address the subsistence needs of rural Alaskans

while allowing for a continuation of sport hunting and fishing.

Based on discussions in April with representatives of the State and the AFN, it is the conclusion of the Fish and Wildlife Service that the State's present hunting and fishing proposals will adequately satisfy the opportunity for meeting the subsistence needs of the local rural residents of the national wildlife monument areas. Since these subsistence needs are being addressed as an integral part of the general hunting and fishing regulations, the State has not been required under SLA 151 to officially identify persons as subsistence users in order to provide them with an exclusive hunting or fishing opportunity.

Given these developments in the State's subsistence program, and desiring to avoid the establishment of a separate comprehensive Federal subsistence program for the wildlife monuments unless presented with no other alternative for addressing the opportunity for meeting the subsistence needs of the local rural residents, the Fish and Wildlife Service has decided to go no further at this point in Part 106 than authorizing the State to continue its subsistence program in accordance with certain general policy guidelines. By also establishing a Federal monitoring process in Part 106, the Service remains empowered at any time to initiate a comprehensive management scheme, including the designation of subsistence resident zones, the identification of subsistence users, and the establishment of seasons and bag limits, should the State's program cease to provide for the subsistence preference. This monitoring system set forth in Part 106 is identical to the one proposed by the National Park Service. Furthermore, since the Fish and Wildlife Service presently does not have to preclude sport hunters from entering the wildlife monuments, there is no need for the Service to address at this time the issue of the use of airplanes for access for hunting purposes, whether subsistence or sport. It would be inequitable to issue a regulation only prohibiting the use of aircraft for access for subsistence purposes if sport hunters would still be allowed to fly into remote areas and would thus have an unfair access advantage to game. If the Service should have to impose its own restrictions on sport hunting within the wildlife monuments, a prohibition on the use of aircraft for hunting access purposes would be a relatively simple and effective way to separate out the fly-in hunter from the resident subsistence users of the area.

In summarizing the differences between the Fish and Wildlife Service

and the National Park Service's subsistence proposals, the most obvious one is the immediate need for the Park Service to identify and separate the sport and the subsistence hunter. The introductory sections of the Park Service proposals accomplish this goal. The Fish and Wildlife Service will not have to address this problem as long as the State continues to adequately satisfy the opportunity for meeting the subsistence needs of the local rural residents of the wildlife monument areas. If the State's program would ever falter in this regard, however, the Fish and Wildlife Service would then be required to adopt the type of subsistence resident zone program proposed by the Park Service. Both agencies are proposing identical oversight programs to monitor the State's provision of the subsistence preference. The two agencies are also proposing identical approaches on closures involving subsistence activities and identical authorizations for the subsistence use of plant resources within any national monument.

It must be remembered that each proclamation establishing a national wildlife monument, recognized that the area preserved as a national monument for the protection of the enumerated historic and scientific features:

[S]upports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected * * * because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monuments.

For this reason, the proclamations direct the Secretary to:

[P]romulgate such regulations as are appropriate, including regulation of sport hunting, and of the opportunity to engage in subsistence lifestyle by local residents * * *

The regulations governing subsistence, which the Fish and Wildlife Service is today proposing, rely for their authority on the above-quoted language from the proclamations. It is the purpose of these regulations to provide and regulate the opportunity of local rural residents to engage in a subsistence lifestyle in the national wildlife monuments. While according subsistence the highest priority consumptive use, Part 106 nevertheless regulates the opportunity to engage in subsistence uses because the regulations for the new monuments must afford protection to all of the values which

support the monument designations. According to the proclamations, the protection of the subsistence lifestyle must "enhance," not detract from, the other historic and scientific values of the monuments. In regulating the continued opportunity for subsistence, Part 106 like the subsistence program proposed in the legislation on the Alaska National Interest Lands, creates a careful balance between State and Federal authority. It sets forth in § 106.11(b) certain criteria that any subsistence program, State or Federal must meet:

(1) The subsistence regulations must adequately implement the "subsistence preference". The purpose of the "subsistence preference" is to ensure that the local rural residents who are most dependent on the resources, have the least access to alternative resources, and reside in areas where the subsistence lifestyle prevails have priority consumptive use of monument resources; and (2) The subsistence program must not allow a "significant expansion" of subsistence use of the monument resources beyond the level occurring during the ten-year period before January 1, 1979. The magnitudes of resource use which constitute significant expansions over past use will be determined within two years of final publication of these regulations after consultation with the State, local rural residents, and other interested parties.

The Fish and Wildlife Service is therefore proposing to authorize the State to continue its subsistence program within the wildlife monuments subject to these limitations. It has also been previously noted that this program would be monitored under § 106.21 to assure its continued compliance with the policies and criteria of Part 106. Should a problem arise with the State's program, the Area Director would notify and consult with the State and suggest modifications to bring the State's program back into compliance with the requirements of Part 106. After a reasonable opportunity, if the State has been unable to make the necessary modifications, the Fish and Wildlife Service would develop its own regulatory program on subsistence and sport hunting and fishing, including the establishment of resident zones, season lengths and bag limits. The State would then be afforded an opportunity to appeal the Area Director's actions to the Director of the Fish and Wildlife Service.

Regardless of whether the Fish and Wildlife Service has to develop its own regulatory program or can continue to rely upon that of the State, each monument manager would retain under § 106.24 the authority to close or restrict any part or all of the monument to subsistence uses for reasons of public safety, administration, or to ensure the

natural stability and continued viability of fish, wildlife or plant populations.

These closure standards allow the monument manager to act in situations which threaten public health and welfare, to protect all the values and uses intended for the new monuments by the Presidential proclamations, to maintain monument resource populations at levels adequately above the threatened level, and to otherwise manage the new monument areas prudently. The "subsistence preference", of course, requires the monument manager to restrict the taking of monument resources by other types of consumptive users (e.g., sport hunters or fishermen, recreational berry-pickers) before considering the necessity of restricting subsistence taking. Absent an emergency situation, § 106.24 would prevent the monument manager from closing all or part of a monument to subsistence uses without prior consultation with the State and an informal public hearing in the affected vicinity. In an emergency situation requiring immediate action (e.g., disease among a wildlife population, hazardous pollution of a heavily-fished body of water, the unexpected migration of a herd of caribou into a campground area), the monument manager shall order the closure of the area, or take other appropriate measures, for a period of not more than sixty days. The monument manager could subsequently extend such an emergency closure, but only if he determined after informal public hearing in the affected vicinity, that the extension was justified for reasons sufficient to support a non-emergency closure.

Inasmuch as a closure to subsistence uses may affect customary patterns of the subsistence lifestyle, the monument manager would not take such a step lightly. Whenever possible, the monument manager would seek prior State and public consultation. To assure adequate notice of the public hearing and any resultant action, the monument manager would be required to publish under Section 106.24 the necessary information in newspapers of general and local circulation, submit it for broadcast on local radio stations, and post it prominently at monument offices.

The concept of a "subsistence preference" is another key element of the Fish and Wildlife Service's subsistence program. Whenever a particular population of a wild renewable resource is not sufficiently plentiful to satisfy all of the needs of local subsistence users, the State of Alaska or the Service would be required by Section 106.11(b) to allocate the

opportunity for access to the resources among the local rural residents in accordance with the three criteria of the subsistence preference. Furthermore, if subsistence uses had to be restricted to protect the continued viability of the resource populations or to prevent the significant expansion of subsistence uses beyond the ten-year harvest level preceeding January 1, 1979, the State or the Service would have to limit the privilege of engaging in subsistence uses within the monument boundaries to only those local rural residents who have the most customary and direct dependence upon the resources as the mainstay of their livelihood, who have the least access to alternative resources, and who live in places where the subsistence lifestyle predominates. The allocation scheme would of course use the available data on the three criteria of the subsistence preference to allocate the available supply of the resources. To the fullest extent possible, public participation would be sought in the affected vicinity for assistance in developing the allocation scheme.

The Service is also including within Part 106 a provision prohibiting the significant expansion of subsistence uses beyond the preceding ten year historical level. The Service believes that this limitation is essential to the proper management of all of the values preserved and protected by the wildlife monument designations. In this regard, the Fish and Wildlife Service shares the concerns expressed by the Committee on Merchant Marine and Fisheries in its report on proposed legislative language which was identical, absent the two-year "phrase-in" provision, to the provisions of Section 106.11(b)(2). See H.R. Rep. No. 96-97, Part II, 96th Cong., 1st Sess. 200-2-1 (1979).

While the Service clearly recognizes subsistence uses as "the highest priority of all consumptive uses" in the wildlife monuments, the Service cannot allow such subsistence uses to expand at the expense of other values recognized in the monument proclamations. The wildlife monument areas currently have healthy populations of fish and wildlife whose population levels must be maintained. The Service could hardly set lower management objectives for these superlative wildlife areas.

The Service is using a ten-year period of reference because the levels of harvest fluctuate with the natural rise and fall of resource populations. In fact such resource populations vary from year to year, and subsistence uses change accordingly. In the case of some species for particular years, the data on populations and level of subsistence use

is sketchy. All in all, however, the existing data on past levels of use set forth in several research documents including the 1974 Environmental Impact Statements withdrawals and the State of Alaska's November Task Force report on subsistence establish a reasonable basis for monitoring and, if necessary, restricting the expansion of subsistence uses.

In order to provide an opportunity for interested parties, and notably the State and the subsistence users themselves, to participate in determining the level of harvest that would constitute a significant expansion, the Service is proposing to phase this policy into practice within the two years after final publication of these regulations.

Finally, Part 106 also proposes to adopt the consensus definition of "subsistence uses" which appears in the various legislative proposals on the Alaska National Interest Lands. The term "subsistence uses" is defined as the customary and traditional use by local residents of rural Alaska of fish, wildlife, and plants for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making or selling of handicraft articles out of the nonedible by-products of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade of furs for cash.

The definition of "subsistence uses" thus limits the term's scope to activities carried out by "local rural resident"; in so doing, it would exclude any former rural resident who now lives in one of Alaska's urban centers.

The definition of "subsistence uses" includes the making and selling of handicraft articles from the nonedible by-products only of fish and wildlife resources taken for personal or family consumption. Accordingly, the definition covers such commercial activities only if the edible portions of the resource have been used for personal or family consumption. The definition of "barter" recognizes that a genuine subsistence lifestyle includes certain foodstuffs and other items which may only be available through a non-cash exchange. Consequently, barter of subsistence resources of a noncommercial nature falls within the meaning of subsistence uses. The definition of "customary trade" recognizes that a genuine subsistence lifestyle may also include limited involvement in the cash economy through the exchange of furs. For example, local rural residents may engage in trapping to obtain the cash

required to obtain the basic needs of their subsistence lifestyle.

Description of Proposed Rulemaking

The following is a brief summary of the various regulatory provisions contained in this proposed rulemaking establishing a new Subchapter H:

Part 96—Administrative Provisions

The provisions of this Part set forth a number of general introductory regulations which will serve as the foundation for the rest of the management regulations in Subchapter H.

Section 96.11—This Section sets out the various purposes for which the Becharof and Yukon Flats National Wildlife Monuments were established and generally summarizes the content of the management regulations proposed in this rulemaking.

Section 96.12—This Section sets out various definitions of key words used in Subchapter H. This Section also incorporates by reference those general definitions presently found at 50 CFR § 10.12 which are used by the Fish and Wildlife Service in its other regulatory programs.

Section 96.13—This Section sets out the disclaimer that compliance with the regulations in subchapter H does not relieve a person from complying with other applicable provisions of Federal, State or local law.

Section 96.14—This Section sets out the scope of these proposed regulations and parallels the language in the Presidential Proclamations establishing the two national wildlife monuments. The important point stressed is that these regulations only apply to lands, waters, or interests therein, located within the boundaries of the wildlife monuments which are owned or controlled by the United States and administered through the United States Wildlife Service. These regulations do not apply to private or State inholdings located within the wildlife monument boundaries although they may indirectly affect such inholdings to the extent that access across Federal property interests is required. Thus, except for the provision regarding access, these regulations do not apply to private inholdings such as valid homesteads, patented mining claims, Native allotments or lands conveyed under the Alaska Native Claims Settlement Act. These general regulations also apply to subsistence activities by local rural residents and to mining activities upon unpatented mining claims to the extent that such regulations are not inconsistent with the specific

regulations governing those activities in Part 106 (subsistence) or Part 107 (mining). It is also noted that the emergency mining access regulations published on March 14, 1979 (44 FR 15500), may still be in effect by the time these regulations are published in final form.

Section 96.21—This Section sets out the various forms of public notice which may be utilized to inform the public of proposed changes regarding permitted or prohibited uses, access, or activities within the wildlife monuments. The Fish and Wildlife Service is committed to maximizing public involvement in these decisions and, except in situations which could result in considerable adverse effects upon the values of a monument, no such modification or change would be implemented without advance public notice. This Section also sets out various criteria which shall be considered by the monument manager in deciding whether to modify any provision regarding public activities, access or uses within the monuments. Separate closure criteria are noted in Sections 106.22 and 106.24 for activities involving the subsistence use of snowmobiles, motorboats and wild renewable resources.

Section 96.31—This Section describes where permits may be obtained to authorize specific activities within the wildlife monuments.

Section 96.32—This Section sets out the obligation of persons within a wildlife monument to exhibit required Federal or State licenses or permits upon the request of authorized officials.

Section 96.33—This Section sets out the appeals process involved in the denial or revocation of a permit by the monument manager. Such appeals shall be to the Area Director whose decision shall constitute the final agency action on the issue. The original decision of the monument manager would remain in effect pending the completion of the review process to the Area Director. This Section also notes a separate appeals process for applications for rights-of-way under Subpart B of Part 100.

Section 96.41—This Section indicates that reasonable charges and fees may be established for certain public recreational activities within wildlife monuments.

Section 96.51—This Section provides for the operation of public use facilities on Federal lands within national wildlife monuments but limits such operations to situations where the services would be compatible with the purposes for which the monuments were established and cannot otherwise be adequately

provided on private or State owned lands within or near the monuments. This will not only provide additional protection to the natural resources of the wildlife monuments but will stimulate local enterprises and economies as a result of visitor use of the monuments.

Section 96.61—This Section states that persons using national wildlife monuments must comply with all applicable Federal and State safety standards and requirements.

Section 96.62—This Section requires the reporting to the monument manager of all accidents or injuries which takes place on Federal lands or waters within the boundaries of a wildlife monument.

Part 97—Public Entry and Use

This Part sets out the regulations governing the circumstances under which the public can enter and use a national wildlife monument.

Section 97.11—This Section sets out the purpose of the regulations in this Part.

Section 97.21—This Section defines and prohibits trespass by persons or domesticated animals within a national wildlife monument.

Section 97.22—This Section requires that persons entering and using any part of a wildlife monument comply with these proposed regulations, the provisions of any special regulations (Section 97.33), official notifications (Section 96.21) and the terms of permits required for certain uses.

Section 97.23—This Section states that the provisions of the applicable agreements, licenses, leases or permits shall govern the entry within a wildlife monument for economic use.

Section 97.24—This Section permits emergency access to areas otherwise closed without the need of a permit.

Section 97.31—As previously noted in the discussion of public comments on recreational activities, the Fish and Wildlife Service is proposing to permit the continuation of on-going recreational activities as long as they remain compatible with the purposes for which the monuments were established. This Section permits public recreation as an incidental or secondary use of the monuments as long as such use is practical and compatible with establishing purposes and other Federal operations. Such conditioning of public recreational uses is derived from requirements of 16 U.S.C. 460k which applies to wildlife monuments.

Section 97.32—This Section provides a partial list of on-going recreational uses determined to be compatible within these wildlife monuments.

Section 97.33—This Section describes the purpose and content of additional special regulations for public use, access and recreation within individual units. These special regulations may describe for each monument: prohibitions or modifications of uses otherwise authorized under this Subchapter H; the seasons, periods or times of use; areas open or closed to particular uses; special conditions for use; and other provisions as necessary. The purpose of these special regulations is to provide more site and time specific management protection of the scientific and historic values of each monument, improve coordination of authorized uses and adequately provide for public safety and other specific administration needs of the monuments.

Section 97.34—This Section is reserved for any special regulations which may be published at some future time.

Section 97.35—This Section describes the conditions that will apply to the construction and occupancy of cabins and related structures within the wildlife monuments. As previously noted in the discussion of public comments on illegal cabins, there is a perceived desirability to permit the occupancy of certain existing cabins by long term residents for certain uses such as public safety and authorized economic uses (i.e. trapping). The opportunity for continuation of compatible public uses also may necessitate the construction of new, government-owned cabins. All such cabins will require special use permits and shall be compatible with the historic and scientific purposes for which the monuments were established. Additionally, new cabins must be directly related to the monument's administration or be necessary to allow for the continuation of an authorized on-going activity. No permits will be granted for private recreational use of cabins on Federal lands. No interest in real property or proprietary rights or privileges will be vested in permittees utilizing such facilities.

Section 97.37—This Section describes the conditions under which special use permits may be granted for public meetings, assemblies, demonstrations or other public events or expressions of view, including applications for organized recreational meets.

Section 97.37—This Section requires guiding operations on wildlife monuments to be compatible with the purposes for which the monuments were established and prohibits such operations unless authorized by a special use permit.

Part 98—Prohibited and Restricted Acts

The regulations in this Part set forth various restrictions and prohibitions governing public behavior and activities within national wildlife monuments.

Section 98.11—This Section sets out the purpose of the regulations Part 98.

Section 98.21—This Section sets out the general prohibition against taking animals or plants within a wildlife monument unless such taking is specifically authorized under some provision of Subchapter H.

Section 98.31—This Section sets out the various conditions governing the operation of motor vehicles, including snowmobiles and other off-road vehicles within national wildlife monuments.

Subsection 98.31(a)—This Subsection sets out the specific provisions regarding the use of snowmobiles. As a general rule, the Subsection proposes to leave the wildlife monuments open to continued snowmobile use except where specifically prohibited. As previously noted in the discussion of public comments on snowmobile use, Section 98.31(a) is proposing specific criteria on the closure of areas to snowmobile use which the Service believes are consistent with the requirements of Executive Orders Nos. 11644 and 11989 regarding off-road vehicle use. Except in unusual situations threatening the natural resources of the wildlife monuments, an area would not be closed to further snowmobile use without prior public notice.

Subsection 98.31(b)(1)—This Subsection sets out the general prohibitions against the use of off-road vehicles other than snowmobiles within a wildlife monument. As previously discussed in the analysis of public comments on the use of off-road vehicles other than snowmobiles, such vehicles can only be operated lawfully within a monument in areas specially designated for their use. The only exception to this general "closed unless opened" approach is proposed in Subsection 98.31(b)(2) regarding access for property inholders or persons whose property interests are effectively surrounded by monument lands. These persons could be authorized by special use permit to operate off-road vehicles other than snowmobiles along specially designated routes or trails regardless of whether that particular area of the monument had been formally opened to general public use of such vehicles. If such a permit holder ever desired to build permanent structures such as roads or bridges, however, in order to facilitate or expand their methods of access, he or she would have to formally

apply for an easement or right-of-way under Subpart B of Part 100.

Subsection 98.31(c)—This Subsection proposes to incorporate by reference the laws of the State of Alaska regarding the use of motorized vehicles.

Subsection 98.31(d)—This Subsection sets out standardized muffler requirements applicable to all Department of the Interior lands.

Subsection 98.31(e)—This Subsection authorizes the use of spark arrestors pursuant to the Department of the Interior's off-road vehicle policy.

Subsection 98.31(f)—This Subsection prohibits the use of any motor vehicle, including off-road vehicles, in a manner resulting in the harassment of wildlife.

Section 98.32—This Section proposes to authorize the use of motorboats within wildlife monuments except where specifically prohibited. This Section also incorporates by reference applicable State and Coast Guard laws and regulations.

Section 98.33—This Section established regulations governing aircraft use within national wildlife monuments.

Subsection 98.33(a)—This Subsection proposes to authorize the use of airplanes within national wildlife monuments except where specifically prohibited. The use and landing of helicopters would be prohibited unless authorized by special use permit. The Subsection also incorporates applicable Federal and State law regarding the use of aircraft.

Subsection 98.33(b)—This Subsection would prohibit the operation of aircraft in such a manner so as to result in the harassment of wildlife.

Subsection 98.33(c)—This Subsection section sets out the regulations regarding the removal of downed aircraft. Unless waived for various management considerations, all aircraft downed after December 1, 1978, would have to be removed pursuant to the terms of a permit issued by the monument manager.

Subsection 98.33(d)—This Subsection sets out the procedures to be followed in temporarily or permanently closing areas within the monuments to further airplane use.

Section 98.41—This Section authorizes the possession, use and transportation of firearms within wildlife monuments when utilized for hunting or personal protection in accordance with applicable State and Federal law. It would not be required that such weapons be kept cased and unloaded when transported within a wildlife monument. The Section does reserve the right of the monument manager,

however, to impose restrictions on the use, possession and transportation of such weapons for the various management reasons set out in Subsection 96.21(b). Thus, if a visitor center or public campground were established at sometime in the future, the use of weapons could be prohibited within a certain proximity to those areas.

Section 98.43—This Section authorizes the possession, use and transportation of weapons other than firearms within national wildlife monuments when utilized for hunting or personal safety in accordance with State and Federal law. This would allow, for example, the use of bows and arrows for hunting purposes to the extent that such use is authorized by State law. As with firearms, the monument manager would be empowered to impose additional restrictions when deemed necessary for various management considerations set out in Subsection 96.21(b).

Section 98.51—This Section sets out the general prohibition against disturbing, injuring or destroying the plant and animal resources of wildlife monuments unless specifically authorized in some other part of Subchapter H such as the provisions on sport hunting or cabin construction. This Section would also authorize the noncommercial collection of plant material such as fruits and berries, or the use of dead or downed timber for firewood. Live standing timber could be cut pursuant to permit for the noncommercial use for house logs or firewood. A permit would be required to insure that such cuttings remain compatible with the purposes for which the monument was established and do not become concentrated in small areas to the detriment of the monument.

Section 98.52—This Section would prohibit the introduction of animals or plants taken outside of a wildlife monument.

Section 98.61—This Section generally prohibits the disturbance or unauthorized removal of private or public property within a wildlife monument, including natural objects thereon, unless specifically authorized.

Section 98.62—This Section sets out the general prohibition against the search for or removal of valuable objects such as paleontological or mineral specimens, artifacts, or semiprecious stones unless specifically authorized under some provision of the general regulations in Subchapter H. An example of the latter situation would be the extraction of minerals on a valid unpatented mining claim. This Section is also proposing to allow recreational

gold panning to occur within the wildlife monuments provided that only a hand held pan is used and the contour or flow of the particular stream is not modified. Thus, the use of sluice boxes and other related gold mining equipment would be prohibited within the monuments unless used in connection with mining operations on a valid unpatented mining claim.

Section 98.63—This Section prohibits the location of new mining claims within the wildlife monuments as required by the withdrawal language of the Presidential Proclamations. It also authorizes the disturbance of surface natural resources where necessary and directly related to mining operations upon a valid unpatented mining claim, provided that such disturbance is kept to the minimum required for mining and does not adversely injure surrounding Federal lands or waters.

Section 98.71—This Section prohibits the unauthorized filming of motion pictures within a wildlife monument for commercial purposes.

Section 98.72—This Section prohibits the use of various audio devices in such a manner so as to unreasonably disturb other visitors or wildlife within the monument.

Section 98.81—This Section sets out a general prohibition against being intoxicated within a national wildlife monument.

Section 98.82—This Section prohibits the possession, delivery or use of drugs and other controlled substances unless authorized under applicable State and Federal law.

Section 98.83—This Section prohibits the harassment of, or interference with, authorized officials or persons lawfully present within a wildlife monument.

Section 98.91—This Section prohibits the unauthorized construction of structures or obstructions such as docks, buildings, dams or fences within a national wildlife monument.

Section 98.92—This Section prohibits leaving personal property unattended for longer periods than nine months without the permission of the monument manager. As noted earlier in the discussion of public comments on abandoned property, this Section would still allow for the use of food and equipment caches within a wildlife monument. The monument manager would be empowered, however, to develop additional restrictions on unattended personal property when deemed necessary for various reasons of administration.

Section 98.93—This Section prohibits the unauthorized dumping or disposal of

wastes and debris within a national wildlife monument.

Section 98.94—This Section sets out the safety rules and regulations regarding the starting and use of fires within a wildlife monument. Generally, campfires may be built anywhere within a monument unless specifically prohibited in certain areas by the monument manager.

Section 98.96—This Section prohibits the unauthorized establishment of commercial or business operations within a wildlife monument.

Part 99—Enforcement, Penalty and Procedural Requirements for Violations of Subchapter H

This Part sets out the regulations governing the enforcement, penalty and procedural provisions involving violations of proposed Subchapter H.

Section 99.11—This Section sets out the purpose of the regulations in this Part.

Section 99.21—This Section charges authorized personnel to protect the historic and scientific values of the national wildlife monuments and government property, to ensure public safety and to enforce laws and regulations governing public use of the monuments.

Section 99.31—This Section sets out the penalties for violation of the provisions of the regulations of this Subchapter H, any special regulations, posted sign or permits, license or privilege for use or occupancy of the wildlife monuments.

Section 99.32—This Section sets out penalty provisions specifically addressing fire and timber violations.

Section 99.41—This Section describes procedures for the impoundment and disposal of domestic animals found in trespass on national wildlife monuments.

Section 99.43—This Section describes conditions authorizing the destruction of dogs running at large on national wildlife monuments.

Part 100—Land Use Management

This Part sets out the regulations governing the economic use of plant or inanimate natural resources of wildlife monuments, the application process for rights-of-way, and the development of reserved mineral interests within the wildlife monuments.

Section 100.1—This Section sets out regulations for persons exercising economic use privileges within wildlife monuments. The granting of permits for such privileges will be conditioned upon findings that the proposed use is compatible with the historic and

scientific values for which a monument was established and that such use shall contribute to, is related to, the administration of the area. A partial listing of potential economic uses is included. Removal of oil and gas and material minerals from Federal lands within the units is precluded by their designation as national monuments.

Section 100.2—This Section sets out the requirement for fees and charges for grants of economic privilege and sale of products taken, commensurate with their local value or similar local rates. This assures comparable return to the public for the economic use of public lands and resources.

Part 100, Subpart B—Rights-or-Way General Regulations—This Subpart prescribes procedures and requirements for the application for rights-of-way for such purposes as powerlines, telephone lines, canals, ditches, pipelines or roads, including the construction, operation and maintenance thereof.

Section 100.21—This Section defines various terms used throughout Subpart B.

Section 100.21-1—This Section sets out the purpose and scope of Subpart B as it relates to easements or lands owned in fee by the United States.

Section 100.21-2—This Section sets out the application procedures and requirements for a right-of-way. Application fees are intended to cover the cost of processing applications as well as the cost incurred by the government in monitoring the construction, operation, maintenance and termination of the proposed facilities. This Section also sets out certain requirements concerning the development of information regarding the impact of the proposed facility upon the environmental, archeological, historical and cultural features of the wildlife monuments.

Section 100.21-3—This Section discusses the nature of the property interest granted (easement of permit) and the period of time for which such interest may be granted.

Section 100.21-4—This Section sets out the standard terms and conditions that are generally included within easements or permits. Additional conditions to fit specific right-of-way applications may also be included.

Section 100.21-5—This Section requires the timely initiation of construction for the proposed facility and proof of its completion.

Section 100.21-6—This Section prescribes the manner and condition under which a permit or easement may be transferred to a third party.

Section 100.21-7—This Section requires the payment of fair market value for rights-of-way either by lump-sum or by annual rental payments. This section also provides for mitigation measures where necessary to make a proposed use compatible with the purposes for which the wildlife monument was established.

Section 100.21-8—This Section sets out special requirements for electrical power transmission lines.

Section 100.21-9—This Section sets out special requirements for pipelines and related facilities for the transportation of oil, natural gas, synthetic liquid or gaseous fuel, or any refined product produced therefrom.

Section 100.22—This Section sets out the procedures for hearings and appeals on matters related to the application for a right-of-way.

Section 100.31—This Section provides that the development of reserved mineral interests within a wildlife monument be conducted in a manner which, to the greatest extent practicable, creates the least adverse impact on the lands, waters, facilities and vegetation of the area, does not disturb the historic and scientific values of adjacent monument lands, and does not interfere with the administration of the monument. This Section does not contravene or nullify valid existing rights in mining claims. Reference is given to Part 107 [reserved] and the emergency mining access regulations of March 14, 1979, (44 FR 15500) since at this time it cannot be predicted which set of mining access regulations will be in effect when Subchapter H is finalized. Because the United States currently owns most of the land within the wildlife monuments in fee, and recognizing that this Subpart only applies to reserved mineral interests on acquired lands, it is not anticipated that the provisions of § 100.31 will be frequently utilized.

Part 101—Feral Animal Management

This Part establishes the definition for and control of feral animals on national wildlife monuments.

Section 100.11—This Section defines feral animals and authorizes their control by authorized Federal and State personnel or by private persons under permit.

Section 100.12—This Section describes the methods for disposal of feral animals taken on national wildlife monuments.

Part 102—Fish and Wildlife Species Management

This Part sets out the criteria for determining surplus fish and wildlife populations and the methods that may be employed in the control or utilization of such surplus populations.

Section 102.1—This Section describes the methods of determining the populations and requirements of fish and wildlife on national wildlife monuments.

Section 102.2—This Section outlines the methods by which fish and wildlife which are deemed to be surplus to a balanced conservation program may be reduced or utilized, provided such reduction is compatible with the purposes for which the monuments were established.

Section 102.11—This Section describes the conditions under which wildlife specimens may be donated or loaned to public institutions.

Section 102.12—This Section describes the conditions under which commercial fishing may be permitted on wildlife monuments.

Section 102.13—This Section describes the circumstances under which official animal control operations may be authorized.

Section 102.14—This Section provides that commercial trapping and sport hunting and fishing may be extended to the general public as regulated in Parts 103, 104 and 105 of the Subchapter H.

Part 103—Sport Hunting

This Part sets out the authorization, general provisions and any special regulations governing the sport hunting of wildlife on national wildlife monuments.

Section 103.11—This Section authorizes compatible sport hunting on wildlife monuments subject to such resources protective closures or restrictions as may be necessary. As previously discussed in the analysis of public comments on the nonsubsistence taking of fish and wildlife, the Fish and Wildlife Service has determined that the numbers of wildlife present within the wildlife monuments are such that sport hunting under current State regulations is compatible with the purposes for which the monuments were established.

Section 103.12—This Section describes the regulatory requirements applicable to persons engaging in sport hunting on wildlife monuments.

Section 103.13—This Section outlines the contents and procedure for publication of special regulations which may be issued for sport hunting on individual wildlife monuments. This

mechanism facilitates the control of the time, areas, and methods of hunting in order to protectively manage the wildlife resources and their habitats and to coordinate this activity with other uses and administrative programs within the monuments.

Section 103.14—This Section is reserved for special future migratory bird hunting regulations for individual wildlife monuments.

Section 103.15—This Section is reserved for future special hunting regulations for big and small game animals on individual wildlife monuments.

Part 104—Sport Fishing

This Part sets out the authorization, general regulations and any special regulations governing sport fishing on national wildlife monuments.

Section 104.11—This Section authorizes compatible sport fishing subject to such resource protective restrictions to as may be necessary. As previously discussed in the analysis of public comments on the nonsubsistence taking of fish and wildlife, the Fish and Wildlife Service has determined that the numbers of fish present within the wildlife monuments are such that sport fishing under current State regulations is compatible with the purposes for which the monuments were established.

Section 104.12—This Section describes the regulatory requirements applicable to persons engaged in sport fishing on wildlife monuments.

Section 104.13—This Section outlines the contents and procedures for publication of special regulations which may be issued for sport fishing on individual wildlife monuments. This mechanism facilitates the control of the time, areas, and methods of fishing in order to protectively manage the fishery resources and their habitats and to coordinate this with other uses and administrative programs within the monuments.

Section 104.14—This Section is reserved for future special fishing regulations on individual wildlife monuments.

Part 105—Trapping

This Part sets out the authorization and general regulations governing the trapping of furbearers on national wildlife monuments.

Section 105.11—This Section authorizes compatible trapping on wildlife monuments subject to such resource protective restrictions as may be necessary. As previously discussed in the analysis of public comments received on the nonsubsistence taking of

fish and wildlife, the Fish and Wildlife Service has determined that the numbers of furbearers present within the wildlife monuments are such that trapping under present State regulations is compatible with the purposes for which the monuments were established.

Section 105.12—This Section describes the regulatory requirements applicable to persons engaged in trapping on natural wildlife monuments.

Section 105.21—This Section requires that persons trapping animals on Federal lands within the wildlife monuments secure and comply with the provisions of a Federal trapping permit.

Part 106—Subsistence

This Part establishes the regulations which provide for and govern the opportunity for local rural residents to engage in a subsistence lifestyle within national wildlife monuments.

Section 106.11—This Section sets out the purpose and policy of Part 106 regarding subsistence activities within national wildlife monuments. The nonwasteful subsistence use of fish, wildlife and plant resources within the wildlife monuments is declared to be the highest priority consumptive use of such resources, subject to three limitations. First, whenever it is necessary to impose restrictions upon the subsistence use of wild renewable resources within a monument, such restrictions shall be based upon local residency, the availability of alternative resources, and the customary and direct dependency upon such resources as the mainstay of one's livelihood. Second, the subsistence use of such plant and animal resources shall be appropriately regulated so as to prevent a significant expansion of such use beyond the level occurring the ten year period from January 1, 1969 through January 1, 1979. These levels will be based upon available research and will be established within 2 years after final publication of these wildlife monument management regulations. The third limitation on subsistence uses recognizes that a monument manager would be empowered to restrict or prohibit the subsistence use of particular populations of wild renewable resources for the three reasons set forth in the Presidential Proclamations.

Section 106.12—This Section defines "subsistence uses" based upon the consensus definition of this term included within the various Alaska lands bills before Congress. The definition also includes an expressed recognition of the importance of trapping to the subsistence lifestyle of the local rural residents of the wildlife monuments areas.

Subsection 106.21(a)—This Subsection incorporates by reference those State laws and regulations on subsistence uses which are compatible with the provisions of this proposed Subchapter H.

Subsection 106.21(b)—This Subsection authorizes the State to regulate the taking of fish and wildlife within a wildlife monument by local rural residents for subsistence purposes, provided that such State regulations are consistent with: the policy statements in § 106.11(b) on subsistence priority and the need to preclude significant expansions of past levels of subsistence use; the purposes for which the monuments were established and other applicable Federal law such as the Endangered Species Act of 1973, as amended.

Subsection 106.21(c)—This Subsection sets out the Federal process for monitoring the State's subsistence regulatory program within the wildlife monuments.

Subsection 106.21(d)—This Subsection sets out the procedure for establishing a Federal subsistence regulatory program if the State's program is no longer found to be in compliance with the requirements of Subsection 106.21(b). The potential regulatory elements of such a Federal program are set forth.

Subsection 106.21(e)—This Subsection sets out the appeals process afforded the State upon the initiation of a Federal subsistence program within the wildlife monuments.

Subsection 106.21(f)—This Subsection states that a monument manager's power to be more restrictive than State law in regulating sport hunting, fishing trapping and commercial fishing shall remain unaffected by the continuation of an adequate State subsistence regulatory program within the wildlife monuments.

Section 106.22—This Section authorizes the use of snowmobiles and motorboats for subsistence activities within the wildlife monuments and sets forth the criteria and procedures under which such uses could be restricted. Except in emergency situations, no closure would be imposed without a prior informal public hearing in the affected vicinity. This Section also incorporates by reference existing State law on the use of motorboats and snowmobiles and prohibits the operation of such vehicles in a manner which results in the harassment or hazing of wildlife.

Section 106.23—This Section authorizes the subsistence use of timber and other plant resources within a wildlife monument. It would not only

allow by permit the noncommercial cutting of standing live timber for house logs or firewood, but would also authorize the noncommercial subsistence use of other plant materials, including dead or downed wood, without a permit.

Section 106.24—This Section sets out the conditions and criteria under which a monument manager could impose restrictions, including closure, upon the subsistence uses of a particular population of fish, wildlife or plants. This Section states that, except in emergency situations, such restrictions or closures would not be imposed without a prior informal public hearing in the affect vicinity and would be limited to the three reasons for closure set forth in the Presidential Proclamations.

Part 107—Mining [Reserved]

This Part currently will remain reserved until comprehensive regulations governing mining operations within wildlife monuments are developed. A regulatory package on the issue of mining will soon be issued as a proposed rulemaking.

Impact Analysis

The Department of the Interior has made a determination that the proposed regulations contained in this rulemaking are not significant, as that term is defined under Executive Order No. 12044 and 43 CFR Part 14, nor will they require the preparation of a regulatory analysis pursuant to the provisions of those authorities. A twenty-eight volume environmental impact statement was prepared in 1974 concerning the establishment and management of National Interest Conservation System units in Alaska, including the Becharof and Yukon Flats areas. The 1974 EIS was supplemented in November of 1978 with an analysis of the impacts of Alternative Executive Branch actions designed to conserve the National Interest Lands in Alaska. In addition to those environmental documents, and the numerous studies included within their bibliographies upon which they were based, a wealth of other materials and analysis have been generated on the management of Alaska National Interest Lands as a result of congressional action on the so called "d-2" legislation. As of the date of this proposed rulemaking, four separate Committee Reports have been published in the House of Representatives and one lengthy Committee Report has been published in the Senate on the issue of the establishment and management of new Conservation System units in Alaska. This is in addition to over twenty-five

formal Congressional Committee hearings conducted on this matter. The Service also notes that consultation was conducted on this proposed rulemaking under Section 7 of the Endangered Species Act of 1973, as amended 16 U.S.C. § 1536, and that it was concluded that this proposal was not likely to jeopardize the continued existence of endangered or threatened species or result in the adverse modification or destruction of critical habitat.

Public Comments and Hearings

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. The comments received in response to the Notice of Intent were very helpful in the preparation of this proposed rulemaking and the Fish and Wildlife Service encourages the public to submit comments on the text of these draft regulations. All such written comments should be sent to the address noted in the beginning SUMMARY of this rulemaking. The fish and Wildlife Service also intends to hold public hearings in Anchorage and Fairbanks on this proposed rulemaking at the beginning of August. Specific details concerning the date, time and location of those hearings will be published in a separate subsequent notice in the *Federal Register*.

A final point to be stressed is that the existing emergency interim management regulations published on December 26, 1979 (43 FR 60255) will continue to remain in effect for the two national wildlife monuments, pending publication of these draft regulations in final form.

The primary authors of this propose rulemaking are: Lew Swenson, United States Fish and Wildlife Service, Anchorage, Alaska; Christine Enright, United States Fish and Wildlife Service, Washington, D.C.; and Donald Barry, Office of the Solicitor, United States Department of the Interior, Washington, D.C.

It is therefore proposed to amend 50 code of Federal Regulations, Chapter I by the establishment of a new Subchapter H in the manner set forth below.

Dated this 22nd day of June, 1979.

Robert L. Herbst,

Assistant Secretary, for Fish Wildlife and Parks.

Chapter I of title 50 code of Federal Regulations is proposed to be amended as follows:

PART 96—[Deleted]

(1) Delete all of existing Part 96 of 50 CFR which was published on an interim emergency basis on December 26, 1978. (43 FR 60255).

(2) Establish a new subchapter H within chapter I of 50 CFR to read as follows:

SUBCHAPTER H—NATIONAL WILDLIFE MONUMENTS

Part

- 96 Administrative provisions.
- 97 Public entry and use.
- 98 Prohibited and restricted acts.
- 99 Enforcement, penalty, and procedural requirements for violations of Subchapter H.
- 100 Land use management.
- 101 Feral animal management.
- 102 Fish and wildlife species management.
- 103 Sport hunting.
- 104 Sport fishing.
- 105 Trapping.
- 106 Subsistence.
- 107 Mining access and development [Reserved]

PART 96—ADMINISTRATIVE PROVISIONS

Subpart A—Introduction

Sec.

- 96.11 Purpose of regulations.
- 96.12 Definitions.
- 96.13 Other applicable laws.
- 96.14 Scope.

Subpart B—Public Notice

- 96.21 General provisions.

Subpart C—Permits

- 96.31 General provisions.
- 96.32 Permits required to be exhibited on request.
- 96.33 Revocation or rejection of permits; appeals.

Subpart D—Fees and Charges

- 96.41 General provisions.

Subpart E—Concessions

- 96.51 General provisions.

Subpart F—Safety Regulations

- 96.61 Public safety.
- 96.62 Reporting of accidents.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460 k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of December 1, 1978, (43 FR 57009))

Subpart A—Introduction

- § 96.11 Purpose of regulations.

(a) The regulations of this Subchapter H govern the general administration of the Becharof and Yukon Flats national wildlife monuments in Alaska, public notice of changes in Service Policy regarding these national wildlife monuments, the issuance of permits

required on national wildlife monuments, and other administrative aspects of national wildlife monuments.

(b) These national wildlife monuments were established as objects of national historic and scientific interest and in their management will offer this Nation unique opportunities to benefit from Alaska's wildlife/wildland bounty; to study the phenomena of Alaskan ecosystems; to preserve and conserve endangered or threatened species and their habitats; to develop an understanding of the Nation's cultural heritage; and to provide an ecological standard against which to measure our national progress in environmental protection.

§ 96.12 Definitions.

(a) As used in the rules and regulations in this Subchapter H:

"National wildlife monument" means all Federal lands, including submerged lands, waters and interests therein owned or controlled by the United States and administered by the U.S. Fish and Wildlife Service within the boundaries of the Yukon Flats and Becharof National Wildlife Monuments as established by Presidential Proclamation 4613, dated December 1, 1978 and Presidential Proclamation 4627, dated December 1, 1978.

"Big game" means game animals, including black bear, brown/grizzly bear, caribou, moose, Dall sheep, wolf and wolverine, or such species as the State of Alaska may so classify.

"Small game" means all species of grouse, hares, rabbits and ptarmigan, or such species as the State of Alaska may so classify, except that waterfowl and migratory birds are not included within this definition.

"Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than 1,000 pounds (450 kilograms), driven by a track or tracks in contact with the snow, steered by a ski or skis in contact with the snow.

"Migratory bird" means and refers to those species of birds listed under Section 10.13 of Chapter I of 50 Code of Federal Regulations.

"Take" means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect.

"Authorized official" means any Federal, State or local official empowered to enforce provisions of this Subchapter H.

"Area Director" means the person representing and speaking for the Director of the U.S. Fish and Wildlife Service, and acting on the Director's

behalf in all matters of delegated authority in Alaska.

"Monument manager" means the person representing and speaking for the Alaska Area Director, U.S. Fish and Wildlife Service, and acting on the Area Director's behalf in all matters of delegated authority involving the planning, operating, implementing and maintaining of regulations, policies and activities applicable and occurring on a national wildlife monument.

"Administration" means all activities associated with a scientific natural resources management program including the protection, restoration, use and development of fish and wildlife populations and wildlands habitat in accordance with sound ecological practices.

(b) Unless otherwise stated, the definitions found in 50 CFR 10.12 also apply to all of Subchapter H of this Title 50.

§ 96.13 Other applicable laws.

Nothing in this subchapter shall be construed to relieve a person from complying with any other applicable requirement imposed by a local ordinance or by a statute or regulation of the State of Alaska or of the United States.

§ 96.14 Scope.

These regulations only apply to Federal lands, including submerged lands, waters, and interests therein owned or controlled by the United States and administered by the Fish and Wildlife Service within the boundaries of a national wildlife monument and do not apply to State or private inholdings, including lands conveyed under the Alaska Native Claims Settlement Act, which are located within a monument. These regulations shall govern activities conducted on unpatented mining claims within the national wildlife monuments to the extent such regulations are not inconsistent with the provisions of Part 107 [reserved] of this Subchapter H, or the emergency mining access regulations published on March 14, 1979 (44 FR 15500), whichever are in effect. Except where specifically provided otherwise in Part 106 of this Subchapter H, all of the provisions of Subchapter H shall apply to subsistence uses by local rural residents within a national wildlife monument.

Subpart B—Public Notice

§ 96.21 General provisions.

(a) Whenever a particular public access, use or recreational activity of any type whatsoever, not otherwise

expressly permitted under this Subchapter H, is permitted on a national wildlife monument, or where public access, use, recreational or other activities previously permitted are restricted or curtailed, the public shall be notified by one or more of the following methods, all of which supplement this Subchapter H:

(1) Official signs posted conspicuously at appropriate intervals and locations;

(2) Special regulations issued under the provisions of § 97.33 of this Subchapter H.

(3) Maps available in the office of the monument manager or Area Director, or

(4) Other appropriate methods such as publication or broadcasting in the local media which will give the public actual or constructive notice of the permitted or curtailed public access, use, or recreational activity.

(b) In determining whether to modify any public use, access or activity otherwise allowed or prohibited under this Subchapter H, the monument manager shall be guided by factors such as other visitor uses, public health and safety, environmental and resource protection, endangered and threatened species conservation, research activities, protection of historic or scientific values, aesthetics and other management considerations.

(c) Notwithstanding any other provision of this section, if the monument manager determines at any time that any public use, access, or activity allowed within a national wildlife monument will cause, or is causing, considerable adverse effects on public health and safety, soil, vegetation, fish or wildlife, fish or wildlife habitat, other historic or scientific values, or any adverse effect upon endangered or threatened species or their habitats all or part of the monument shall be immediately closed to the type of use, access or activity causing the adverse effects. Following closure, any area or route so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on whether to reopen or permanently close the area or route. No area shall be reopened until the monument manager determines that the adverse effects have been eliminated and that measures have been implemented to prevent further recurrence. See §§ 106.22 and 106.24 of this Subchapter H for provisions regarding closures affecting subsistence use of snowmobiles, motorboats and wild renewable resources.

Subpart C—Permits

§ 96.31 General provisions.

Permits required by this Subchapter H must be obtained from the headquarters or subheadquarters of the monument where the activity is to take place. If the applicant is required to obtain the applicable permit from the Director or Secretary, the monument manager will so inform the applicant, giving the applicant all the necessary information as to how and where to apply.

§ 96.32 Permits required to be exhibited on request.

Any person on a national wildlife monument shall exhibit upon request by authorized officials any Federal or State permit or license which may be required to authorize a particular activity on the area and shall furnish such other information for identification purposes as may be requested.

§ 96.33 Revocation or rejection of permits; appeals.

(a) *Who may appeal:* A permittee or permit applicant who is adversely affected by a monument manager's decision or order relating to privileges granted or sought by permit on a national wildlife monument. This section does not apply to the appeal of permits or applications for rights-of-way which are outlined in § 100.22 of this Subchapter H.

(b) *Preliminary procedure.* Prior to making any adverse decision or order on a permit or application for permit, the monument manager shall provide the permittee or applicant with written notice of the proposed action, the reasons for such proposed action and its effective date. Within thirty (30) days of issuance of such notice, the permittee or applicant shall: (1) present the monument manager with a written statement of objection to the proposed action or date and the reasons for such objection; or (2) initiate the appeals procedures in paragraph (c) of this section including the submission of written objections to the proposed action and the reasons for such objection. The permittee or applicant shall be notified in writing of the monument manager's final decision or order within thirty (30) days after receipt of the statement of objection.

(c) *Limitation of appeals.* The permit applicant or permittee shall have thirty (30) days from the issuance of the monument manager's final decision or, in the case of a direct appeal initiated pursuant to paragraph (b)(2) of this section, the postmarked date of initial notice from the monument manager, in

which to file written appeal to the Area Director. The appellant shall be notified in writing of the Area Director's decision within thirty (30) days of receipt of the appeal. The Area Director's decision shall constitute final agency action on the permit revocation or rejection.

(d) *Oral presentation.* Upon request, the appellant shall be provided an opportunity for oral presentation before the Area Director within the thirty (30) day appeal period.

(e) *Addresses.* The addresses of the appropriate officials to whom appeals may be taken shall be furnished in each notification or order.

(f) *Compliance pending appeal.* Compliance with any final decision or order of the monument manager shall not be suspended by reason of an appeal having been taken unless such suspension is authorized in writing by the Area Director, and then only upon a determination by the Area Director that such suspension will not be detrimental to the interests of the United States. The decision to grant a suspension may be conditioned upon the submission and acceptance of a bond deemed adequate to indemnify the United States from loss or damage which may occur as a result of the suspension pending appeal.

Subpart D—Fees and Charges

§ 96.41 General provisions.

Reasonable charges and fees may be established for certain public recreation uses of national wildlife monuments. Regulations regarding recreation fees are contained in 36 CFR Part 1227.

Subpart E—Concessions

§ 96.51 General provisions.

Public use facilities may be operated on Federal lands within a national wildlife monument by concessionaires or cooperators under appropriate contract or legal agreement where: (1) there is a demonstrated justified need for services or facilities that cannot be adequately provided on private or State owned lands within or near the monument, and (2) such services or facilities are compatible with the historic and scientific purposes for which the monument was established.

Subpart F—Safety Regulations

§ 96.61 Public safety.

Persons using national wildlife monuments shall comply with all applicable Federal or State safety requirements, including the safety requirements which may be established under the provisions of this Subpart H for each individual monument and any

safety provisions which may be included in leases, agreements, or permits.

§ 96.62 Reporting of accidents.

Accidents involving damage to property, injury to the public or injury to wildlife that occur within the boundaries of any national wildlife monument are to be reported as soon as possible by the persons involved to the monument manager or other personnel on duty at the national wildlife monument headquarters or subheadquarters. This report does not relieve persons from the responsibility of making any other accident reports which may be required under applicable Federal, State, or local law.

PART 97—PUBLIC ENTRY AND USE

Subpart A—Introduction

Sec.

97.11 Purpose of regulations.

Subpart B—Public Entry

97.21 General trespass provision.

97.22 General regulations on entry.

97.23 Exception for entry for economic use privileges.

97.24 Exception for emergency access.

Subpart C—Public Use and Recreation

97.31 General provisions.

97.32 Recreation uses.

97.33 Special regulations

97.34 Special regulations concerning public use, recreation and access for individual national wildlife monuments. [reserved]

97.35 Cabin sites.

97.36 Public assemblies and meetings.

97.37 Guiding operations.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978, (43 FR 57009)).

Subpart A—Introduction

§ 97.11 Purpose of regulations.

The regulations in this Part govern the circumstances under which the public can enter and use a national wildlife monument.

Subpart B—Public Entry

§ 97.21 General trespass provision.

(a) No person shall trespass, enter, occupy, use, or be upon, any national wildlife monument, except as specifically authorized in this Subchapter H.

(b) Except for household pets and sled dogs under direct control of their owner or handler, or when authorized under a special use permit, no domesticated animal including but not limited to hogs, horses, sheep, reindeer and cattle, shall

be permitted to enter or to roam at large within a national wildlife monument.

§ 97.22 General regulations on entry.

(a) Any person entering or using any national wildlife monument shall comply with the regulations in this Subchapter H, the provisions of any special regulation applicable to the monument and any other official notification as is appropriate under § 96.21.

(b) A permit shall not be required for entering a national wildlife monument unless otherwise provided under the provisions of this Subchapter H. A permittee shall abide by all the terms and conditions set forth in the permit.

§ 97.23 Exception for entry for economic use privileges.

Access to and travel upon a national wildlife monument by a person granted economic use privileges for that monument may be restricted to a specified area in accordance with the provisions of the economic use agreement, lease, or permit.

§ 97.24 Exception for emergency access.

A permit shall not be required for emergency access to any national wildlife monument area which has been closed to general access and use, when such emergency access is required for temporary shelter, protection, or to protect life or property.

Subpart C—Public Use and Recreation

§ 97.31 General provisions.

Public recreation will be permitted on a national wildlife monument as an appropriate incidental or secondary use, as long as such recreational use is practicable and compatible with the scientific and historic purposes for which the monument was established and with other authorized Federal operations. When a particular recreational use is to be prohibited, the public will be notified under the provisions of this Subchapter H.

§ 97.32 Recreational uses.

Recreational uses may include but not limited to, sightseeing, nature observation and photography, cross-country skiing, dog sledding, sport hunting and fishing, boating, camping, ice skating, picnicking, goldpanning, swimming, snowmobiling and other similar activities.

§ 97.33 Special regulations.

(a) Special regulations shall be issued for public use, access, and recreation within individual national wildlife monuments where there is a need to

amend or modify the regulations contained in this Subchapter H. The issued special regulations will supplement the provisions in this Part 97.

(b) Special recreational use regulations may contain the following items:

(1) Recreational uses prohibited.

(2) Seasons, period, or specific time of use.

(3) Description of areas closed to recreation.

(4) Specific conditions or requirements.

(5) Other provisions as necessary.

(c) Special regulations for public use, access, and recreation are published in the daily issue of the Federal Register and may be codified in the Code of Federal Regulations. They shall be issued in compliance with procedures contained in the Departmental Manual.

§ 97.34 Special regulations concerning public use, recreation and access for individual national wildlife monuments. [Reserved]

§ 97.35 Cabin sites.

The following conditions shall apply regarding the construction, use and occupancy of cabins and related structures on federal lands within a national wildlife monument.

(a) Construction of new cabins is prohibited except as authorized by a nontransferable, five year special use permit issued by the monument manager. Such special use permit shall only be issued upon a determination that the proposed use, construction and maintenance of a cabin is compatible with the historic and scientific purposes for which the monument was established and that the use of the cabin is either directly related to the administration of the monument or is necessary to provide for a continuation of an on-going activity or use otherwise allowed within the monument where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use. Special use permits for new cabins may be renewed with the concurrence of the monument manager and the permittee in accordance with the criteria of this subsection.

(b) Traditional and customary uses of existing cabins and related structures of Federal lands within a national wildlife monument may be allowed to continue in accordance with a nontransferable, five year special use permit issued by the monument manager, provided that such uses are compatible with the

historic and scientific purposes for which the monument was established. Such special use permits may be renewed with the concurrence of the monument manager and the permittee in accordance with the criteria of this subsection. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.

(c) No special use permit shall be issued under this Section unless the permit applicant:

(1) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(2) Submits an acceptable sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(3) Agrees to vacate and remove, within a reasonable time period established by the monument manager, all personal property from the cabin or structure upon non-renewable or revocation of the permit; and

(4) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.

(d) The Federal government shall retain ownership of all new and existing cabins and related structures on Federal lands within a national wildlife monument and there shall be no proprietary rights or privileges conveyed through the issuance of the special use permit required by paragraphs (a) or (b) of this section. Cabins or other structures not under permit shall be used only for official government business; *provided however*, that during emergencies involving the safety of human life or where designated for public use by the monument manager, these cabins may be used by the general public.

§ 97.36 Public assemblies and meetings.

(a) Public meetings, assemblies, demonstrations, and other public events or expressions of view may be permitted within a national wildlife monument in accordance with a special use permit issued by the monument manager.

(b) Any application for such permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith.

(c) The monument manager may issue a permit on proper application unless:

(1) A prior application for the same time and place has been made which has been or will be granted; or

(2) The activity will present a clear and present danger to public health or safety, or undue disturbance to the other users or resources of the area; or

(3) The activity is of such nature that it cannot be reasonably accommodated in the particular national wildlife monument; or

(4) The activity is not compatible with the historic and scientific purposes of the national wildlife monument.

(d) The permit may contain such conditions as are reasonably necessary to ensure that such use of the monument is consistent with the historic and scientific purposes for which it was established. It may also contain reasonable limitations on the time and area within which the activity is permitted.

§ 97.37 Guiding operations.

Commercial guiding operations may be allowed in accordance with a special use permit issued by the monument manager if such operations are compatible with the historic and scientific purposes for which the monument was established. Such operations shall be conducted in accordance with applicable State and Federal law and any special terms or conditions required by the special use permit.

PART 98—PROHIBITED AND RESTRICTED ACTS

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Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 [43 FR 57009]).

Subpart A—Introduction**§ 98.11 Purpose of regulations.**

(a) The regulations in this part govern those acts by the public which are prohibited or restricted once the public enters a national wildlife monument.

Subpart B—Taking Violations**§ 98.21 General provisions.**

No person shall take any animal or plant within any national wildlife monument except as authorized under this Subchapter H.

Subpart C—The Use of Vehicles**§ 98.31 General provisions regarding vehicles.**

Travel in or use of any motorized vehicles, including those used on air, water, ice or snow is subject to the following requirements and limitations:

(a) Snowmobiles may be operated on lands and frozen water surfaces except where specifically prohibited. In determining whether to restrict the use of snowmobiles or to temporarily or permanently close a route or area to snowmobile use, the monument manager shall be guided by the criteria contained in Section 3 of Executive Order No. 11644 (34 FR 2877), as amended, and shall consider factors such as other visitor uses, public health and safety, environmental and resource protection, endangered and threatened species conservation, research activities, protection of historic and scientific values, aesthetics and other management considerations necessary to ensure that snowmobile use is compatible with the scientific and historic purposes for which the monument was created. If the monument

manager determines, at any time, that the use of snowmobiles in any area or on any route will cause, or is causing, considerable adverse effects on public health and safety, soil, vegetation, fish or wildlife, fish or wildlife habitat, other historic or scientific resources, or any adverse effect upon endangered or threatened species or their habitats, that area or route shall be immediately closed to the type of use causing the adverse effects. Following closure, any area or route so closed shall be evaluated in accordance with the criteria and factors set forth in the beginning of this paragraph (a) prior to a final decision on whether to reopen or permanently close the area or route. No area or route shall be reopened until the monument manager determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence. See § 106.22 for provisions regarding the closure of an area to the use of snowmobiles for subsistence purposes.

(b)(1) Off-road vehicles other than snowmobiles are prohibited except where specifically authorized by designated route or area. In determining whether to designate routes or areas for off-road vehicle traffic other than snowmobiles, the monument manager shall be guided by the criteria contained in Section 3 of Executive Order No. 11644 (34 FR 2877), as amended, and shall consider factors such as other visitor uses, public health and safety, environmental and resource protection, endangered and threatened species conservation, research activities, protection of historic and scientific values, aesthetics and other management considerations necessary to ensure that such off-road vehicle use is compatible with the historic and scientific purposes for which the monument was established. If the monument manager determines at any time that the continued use of off-road vehicles on any designated route or area will cause, or is causing, considerable adverse effects on public health and safety, soil, vegetation, fish or wildlife, fish or wildlife habitat, other historic or scientific resources, or any adverse impact upon endangered and threatened species or their habitats, that route or area shall be immediately closed to the type of use causing the adverse effects. Following closure, any route or area so closed shall be evaluated in accordance with the criteria and factors set forth in the beginning of this paragraph (b) prior to a final decision on whether to reopen or permanently close the affected vicinity. No area or route shall be

reopened until the monument manager determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

(b)(2) Notwithstanding any other provision of this section, any person who has a valid property or occupancy interest in lands which are located within, or effectively surrounded by, a national wildlife monument may apply for a special use permit authorizing the operation of an off-road vehicle other than a snowmobile across Federally owned or controlled lands within the monument. Upon application, the monument manager shall issue such a special use permit which shall specify reasonable routes and methods of access within the monument to be used by the permit applicant. These routes and methods of access shall be limited to those traditionally used by the applicant unless the monument manager determines that reasonable alternative routes and methods exist which would be less damaging to the environmental values of the monument. Where routes of access have not been established previously, the monument manager shall establish such reasonable routes and methods of access which are least damaging to the environmental values of the monument. All specified routes and methods of access shall be recorded on a map which shall be available for public inspection in the monument manager's office. Any modification or establishment of a route or method of access which requires the construction of permanent improvements or structures such as roads is prohibited unless authorized pursuant to the provisions of Part 100 of this Subchapter H. The provisions of this section shall not apply to access to and from mining claims which shall be governed by the provisions of Part 107 [Reserved] of this Subchapter H or the emergency mining access regulations published on March 14, 1979 (44 FR 15500), whichever are in effect.

(c) Except as provided otherwise by the regulations set forth in this Subchapter H, the laws and regulations of the State of Alaska shall govern traffic and the operation and use of motorized vehicles within the boundaries of a national wildlife monument. Such State laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this Part.

(d) Every motor vehicle shall at all times be equipped with a muffler in good working order, which cannot be removed or otherwise altered while the

vehicle is being operated within a national wildlife monument. To prevent excessive or unusual noise, no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle. A vehicle that produces unusual or excessive noise or visible pollutants is prohibited.

(e) A monument manager, by posting of appropriate signs or by marking on a map which shall be available at the monument headquarters or subheadquarters may require that any motor vehicle operating in the designated area shall be equipped with a spark arrestor that meets standard 5100-1a of the United States Forest Service, Department of Agriculture, which standard includes the requirements that such spark arrestor shall have an efficiency to retain or destroy at least 80 percent of carbon particles, for all flow rates, and that such spark arrestor has been warranted by its manufacturer as meeting the above mentioned efficiency requirement for at least 1,000 hours, subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendations.

(f) No motor vehicle may be operated in any manner that will result in the herding, harassment, hazing or driving of wildlife for hunting or other purposes. The use of motor vehicles may also be subject to other requirements which are established under the provisions of this Subchapter H.

§ 98.32 Boats.

The use of boats in national wildlife monuments is authorized except where specifically prohibited or restricted under the provisions of this Subchapter H. Such uses are subject to the following restrictions:

(a) The laws and regulations of the State of Alaska shall govern boating activities and the operation and use of boats. Such State laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(b) The laws and regulations of the U.S. Coast Guard within whose jurisdictional boundaries a national wildlife monument or portion thereof is located shall govern boating activities and the operation and use of boats. Such U.S. Coast Guard rules and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(c) Government-owned docks, piers and floats shall not be used for loading and unloading of boats, except in emergencies or unless specifically authorized by the monument manager.

§ 98.33 Aircraft.

(a) The operation of fixed-wing aircraft, including landings and take-offs, are authorized except where specifically prohibited. The use or landing of helicopters may only be authorized pursuant to a special use permit issued by the monument manager. Emergency landings in closed areas shall be allowed in accordance with the provisions of § 97.24 of this Subchapter H. The laws and regulations of the Federal Aviation Administration and the State of Alaska shall govern aircraft activities and the operation and use of aircraft. Such Federal Aviation Administration and State rules and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(b) The operation of aircraft at altitudes and in flight paths resulting in harassment of wildlife is prohibited.

(c) The owners of any aircraft downed after December 1, 1978, shall remove the aircraft and all component parts thereof in accordance with procedures set forth in a permit issued by the monument manager. The monument manager may waive the requirements of this Subsection upon a determination that

(1) The removal of a downed aircraft would constitute an unacceptable risk to human life;

(2) The removal of a downed aircraft would result in extensive resource damage; or

(3) The removal of a downed aircraft is otherwise impossible or impracticable. Salvaging, removing, possessing or attempting to salvage, remove or possess aircraft is prohibited, except in accordance with procedures set forth in a permit issued by the monument manager.

(d) Temporary closures or restrictions shall be published as "Notices to Airmen" issued by the Department of Transportation, and designated on a map of the area which shall be available for public inspection at the office of the monument manager. Following temporary closure or restriction, any area so closed shall be evaluated in accordance with the criteria stated in § 96.21(e) of this Subchapter H prior to a final decision on whether to reopen or permanently close the area. Permanent closures shall be published as a regulatory notice in the United States Government Flight Information Service "Supplement Alaska," posted at Flight Service stations and the post offices of second class cities and designated on a map of the area which shall be available for public inspection at the office of the monument manager. Prior to making a

final decision on permanent closure of an area, notice of such intention shall be published in accordance with the provisions of § 96.21 of this Subchapter H.

Subpart D—The Use of Weapons

§ 98.41 Fireworks and explosives.

Carrying, possessing, or discharging fireworks, or explosives on national wildlife monuments is prohibited unless specifically authorized under the provisions of this Subchapter H.

§ 98.42 Firearms.

The possession, use and transporting of firearms on national wildlife monuments is authorized for hunting and personal protection in accordance with applicable State and Federal laws unless specifically prohibited or otherwise restricted by the monument manager under the provisions of this Subchapter H.

§ 98.43 Weapons other than firearms.

The transporting use and possession of weapons other than firearms is authorized for hunting and personal protection in accordance with applicable State and Federal law unless specifically prohibited or otherwise restricted by the monument manager under the provisions of this Subchapter H.

Subpart E—Injuring or Damaging Plants and Animals

§ 98.51 Disturbing, injuring, and damaging plants and animals

Disturbing, injuring, destroying, collecting or attempting to disturb, injure, destroy or collect any plant or animal on any national wildlife monument is prohibited unless resulting from an activity otherwise permitted under this Subchapter H. The noncommercial cutting of standing live timber for uses such as house logs or firewood may be permitted in accordance with a special use permit issued by the monument manager if such cutting is determined to be compatible with the historic and scientific purposes for which the monument was established. The noncommercial gathering of fruits, berries, mushrooms, and other plant material including dead or downed timber for firewood shall be allowed without permit.

§ 98.52 Introduction of plants and animals.

Animals and plants or their parts taken elsewhere shall not be introduced, liberated, or placed on any national

wildlife monument except as expressly authorized under this Subchapter H.

Subpart F—Actions Against Real or Personal Property

§ 98.61 Destruction or removal of property.

The destruction, injury, defacement, disturbance, or the unauthorized removal of any public property including natural objects or private property on or from any national wildlife monument is prohibited unless specifically authorized under the provisions of this Subchapter H.

§ 98.62 Search for and removal of valued objects.

(a) No person shall search for or remove buried treasure, treasure trove, valuable semiprecious rocks, stones, archeological, paleontological or mineral specimens on national wildlife monuments unless authorized by special use permit or under the provisions of this Subchapter H.

(b) Permits are required for archeological and paleontological studies on national wildlife monuments in accordance with the provisions of 43 CFR Part 3.

(c) Except for valid existing rights in claims, gold extraction by methods other than a hand-held pan is prohibited. Panning for gold for recreational purposes is authorized provided that only a hand-held pan is used and streambed contours or streamflows are not modified or obstructed.

§ 98.63 Mining.

Prospecting or locating new mining claims on Federal lands within national wildlife monuments is prohibited. Pending publication of Part 107 [reserved] governing mining access and development, persons possessing valid existing rights in unpatented mining claims shall be authorized to undertake such surface disturbance activities as are necessary and directly related to mining operations upon the mining claim; *Provided however*, that such surface disturbance activities shall be kept to the minimum required for the development of the mining claim and shall not constitute a nuisance or significantly injure or adversely affect adjacent Federally owned or controlled lands or waters within the monument. See the emergency mining access regulations published March 14, 1979 (44 FR 15500) for provisions regarding mining access permits for mining activities involving national wildlife monuments pending final publication of Part 107.

Subpart G—Unauthorized Use of Light and Sound Equipment

§ 98.71 Motion or sound pictures.

The taking or filming of any motion or sound pictures on a national wildlife monument for subsequent commercial use is prohibited except as may be authorized under the provisions of 43 CFR Part 5.

§ 98.72 Audio equipment.

The operation or use of audio devices including radios, recording and playback devices, loudspeakers, television sets, public address systems and musical instruments within a national wildlife monument so as to cause unreasonable disturbance to persons or wildlife in the vicinity is prohibited.

Subpart H—Personal Conduct

§ 98.81 Alcoholic beverages.

Entering or remaining upon any national wildlife monument when under the influence of alcohol, to a degree that may endanger oneself or other persons or property or unreasonably annoy persons in the vicinity, is prohibited.

§ 98.82 Possession and delivery of controlled substances.

Possession, delivery or use of controlled substances is prohibited unless authorized by applicable Federal and State Law. For purposes of this Section, the term "controlled substance" means a drug or other substance, or immediate precursor, included in Schedules I, II, III, IV or V of Part B of the Controlled Substance Act (21 U.S.C. 812) or any drug or substance added to these schedules pursuant to the terms of the Controlled Substance Act.

§ 98.83 Interference with persons engaged in authorized activities.

Disturbing, molesting, or interfering with any employee of the United States or of any local or State government engaged in official business, or with any private person engaged in the pursuit of an authorized activity on any national wildlife monument, is prohibited.

Subpart I—Miscellaneous Prohibitions

§ 98.91 Private structures.

Except as may be authorized under this Subchapter H, no person shall construct, install, occupy, or maintain any building, log boom, pier, dock, fence, wall, pile, anchorage, or obstruction in any national wildlife monument.

§ 98.92 Unattended or abandoned property.

(a) Leaving any snowmobile, vessel, off-road vehicle or other personal property unattended for longer than 9 months, without prior permission of the monument manager is prohibited and any property so left may be impounded by the monument manager.

(b) The monument manager may: (1) designate areas where personal property may not be left unattended; (2) establish limits on the amount and type of personal property that may be left unattended; (3) designate areas in which unattended personal property may be left for periods of time to be determined by the monument manager; or (4) prescribe the manner in which personal property may be left unattended.

(c) In the event unattended property interferes with the safe and orderly management of part of the wildlife monument, or is causing damage to monument resources, it may be impounded by the monument manager at any time.

§ 98.93 Disposal of waste.

(a) The littering, disposing, or dumping in any manner of garbage, refuse, sewage, sludge, earth, rocks, or other debris on any national wildlife monument except at points or locations designated by the monument manager, or the draining or dumping of oil, acids, pesticide wastes, poisons, or any other types of chemical wastes in, or otherwise polluting any waters, water holes, streams or other areas within any national wildlife monument is prohibited.

(b) Persons using a national wildlife monument shall comply with the sanitary requirements established under the provisions of this Subchapter H for each individual monument, the sanitation provisions which may be included in leases, agreements, or use permits, and all applicable Federal and State laws.

§ 98.94 Fires.

(a) The use of campfires on Federal lands within national wildlife monuments shall be permitted unless specifically prohibited by the monument manager. See § 98.51 regarding the noncommercial taking of dead or downed timber for firewood. The starting of all other types of fires on Federal lands within a monument is prohibited unless specifically authorized by the monument manager.

(b) In order to prevent the spread of wildfires, persons on Federal lands within a national wildlife monument shall not: (1) leave a fire unattended or

partially extinguished; (2) throw a burning cigarette, match, or other lighted substance from any moving conveyance or throw any such lighted objects or substances in any place where it may start a fire; and (3) smoke on any lands, including roads, or in any buildings which have been designated and/or posted with no smoking signs.

§ 98.95 Advertising.

Except as may be authorized, posting, distributing, or otherwise displaying private or public notices, advertisements, announcements, or displays of any kind in any national wildlife monument, other than business designations on private vehicles or boats, is prohibited.

§ 98.96 Private operations.

Soliciting business or conducting a commercial enterprise on any national wildlife monument is prohibited except as may be authorized by special use permit issued by the monument manager.

PART 99—ENFORCEMENT, PENALTY, AND PROCEDURAL REQUIREMENTS FOR VIOLATIONS OF SUBCHAPTER H

Subpart A—Introduction

Sec.

99.11 Purpose of regulations.

Subpart B—Enforcement Authority

99.21 General provisions.

Subpart C—Penalty Provisions.

99.31 General penalty provisions.

99.32 Penalty provisions concerning fires and timber.

Subpart D—Impoundment Procedures

99.41 Impoundment of abandoned property.

99.42 Impoundment of domestic animals.

99.43 Destruction of dogs.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 (43 FR 57009).)

Subpart A—Introduction

§ 99.11 Purpose of regulations.

The regulations in this Part govern the enforcement, penalty and procedural requirements for violations of this Subchapter H.

Subpart B—Enforcement Authority

§ 99.21 General provisions.

Authorized personnel shall protect the historic and scientific values of the national wildlife monuments, including fish and wildlife and their habitat, and prevent their disturbance, protect Service property and facilities, and insure the safety of the using public to

the fullest degree possible. The control of recreational use will be enforced to meet these purposes pursuant to Federal, State, and local law, the provisions of this Subchapter H and any special regulations issued pursuant thereto, and any additional prohibitions and restrictions as posted.

Subpart C—Penalty Provisions

§ 99.31 General penalty provisions.

(a) Any person who violates any of the provisions, posted signs, or special regulations of this Subchapter H or any items, conditions or restrictions in a permit, license, grant, privilege, or any other limitation established under the Subchapter H, shall be subject to the penalty provisions of this section.

(b) Failure of any person, utilizing the resources of any national wildlife monument or enjoying any privilege of use thereon for any purpose whatsoever, to comply with any of the provisions, conditions, restrictions, or requirements of this Subchapter H or to comply with any applicable provisions of Federal or incorporated State law may render such person subject to:

(1) The penalties as prescribed by law: (Sec. 1, 34 Stat. 225, 16 U.S.C. 433; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3); or

(2) Civil liability for trespass and damages.

§ 99.32 Penalty provisions concerning fires and timber.

(a) Any person violating sections 1855-1856 of the Criminal Code (18 U.S.C. 1855-1856) as they pertain to fires on national wildlife monument lands of the United States shall be subject to civil action and to the penalty provisions of law.

(b) Any person violating sections 1852-1853 of the Criminal Code (18 U.S.C. 1852-1853) as they pertain to timber on national wildlife monument lands of the United States shall be subject to civil action and to the penalty provisions of law.

Subpart D—Impoundment Procedures

§ 99.41 Impoundment of abandoned property.

Any property abandoned on any national wildlife monument is subject to removal. The expense of the removal shall be borne by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal within 3 months after impoundment, in accordance with Section 203m of the Federal Property and Administrative Services Act of 1959, as amended (40 U.S.C. 484m), and regulations issued thereunder. Former

owners may apply within 3 years for reimbursement for such property, subject to disposal and storage costs and similar expenses, upon sufficient proof of ownership.

§ 99.42 Impoundment on domestic animals.

(a) Any domestic animal trespassing on the lands of any national wildlife monument may be impounded and disposed of in accordance with the laws of the State of Alaska insofar as they may be applicable. In the absence of such State statutes, the animals shall be disposed of in accordance with this section. See § 97.21(b) for general trespass provisions of domestic animals.

(b) If the owner is known, an attempt will be made to serve a written notice by registered mail with return receipt requested. Upon notification as evidenced by returned written receipt, failure to remove the animal(s) within 15 days from receipt of such notice shall result in the sale or disposition of the impounded animal(s) as prescribed in this section.

(c) If notification by registered mail is unsuccessful or if the owner is unknown, no disposition of the animal(s) shall be made until at least 30 days have elapsed from the date of a legal notice of the impounding has been posted at the local post office of appropriate local village meeting place and 15 days after a second notice has been published in a newspaper in general circulation in the area in which the trespass took place.

(d) The notice shall state when and where the animal was impounded and shall describe it by brand or earmark or distinguishing marks or by other reasonable identification. The notice shall specify the time and place the animal will be offered at public sale to the highest bidder, in the event it is not claimed or redeemed. The notice shall reserve the right of the official conducting the sale to reject any and all bids so received.

(e) Prior to such sale, the owner may redeem the animal by submitting proof of ownership and paying all expenses of the United States for, capturing, impounding, advertising, care, forage, and damage claims.

(f) If an animal impounded under this section is offered at public sale and no bid is received or if the highest bid received is an amount less than the claim of the United States, the animal may be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States. Upon the sale of any animal in accordance with

this section, the buyer shall be issued a certificate of sale.

(g) In determining the claim of the Federal Government in all livestock or reindeer trespass cases on national wildlife monuments, the value of forage consumed shall be computed at the commercial unit rate prevailing in the locality for that class of livestock. In addition, the claim shall include damages to national wildlife monument property injured or destroyed, and all related expenses incurred in the impounding, caring for and disposing of the animal. The salary of Service employees for the time spent in and about the investigations, reports, and settlement or prosecution of the case shall be prorated in computing the expense. Payment of claims due the United States shall be made by certified check or postal money order payable to the U.S. Fish and Wildlife Service.

§ 99.43 Destruction of dogs.

Dogs running at large on a national wildlife monument and observed by an authorized official in the act of killing, injuring, harassing or molesting humans or wildlife may be disposed of in the interest of public safety and protection of the wildlife.

PART 100—LAND USE MANAGEMENT

Subpart A—General Rules

Sec.

100. Use of natural resources.

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100.21. Definitions.

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100.22 Hearing and appeals procedure.

Subpart C—Mineral Operations

100.31 Mineral rights reserved and excepted.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978, (43 FR 57009)).

Subpart A—General Rules

§ 100.1 Use of natural resources.

Public or private economic use of the plant or inanimate natural resources of

any national wildlife monument area may be authorized by permit where the use is compatible with the scientific and historic values for which the monument was established and where such use shall contribute to, or is related to, the administration of the area. Persons exercising economic privileges on monument areas will be subject to the applicable provisions of this Subchapter H and of other applicable laws and regulations governing wildlife monument areas. Permits for economic use shall contain such terms and conditions as are determined to be necessary for the administration and preservation of the historic and scientific values of the national wildlife monuments. Economic use in this section includes but is not limited to removing timber, firewood or other natural products of the soil; cultivating areas; or engaging in operations that facilitate approved programs on wildlife monument areas.

§ 100.2 Fees.

Fees and charges for the grant of privileges on wildlife monument areas and for the sale of products taken therefrom, where not otherwise prescribed by law or regulation, shall be set at a rate commensurate with fees and charges for similar privileges and products made by private land owners in the vicinity or in accordance with their local value. Fees or rates of charge for products and privileges may be based either on a monetary exchange or on a share in kind of the resource or product.

Subpart B—Rights-of-Way General Regulations

§ 100.21 Definitions.

For purposes of this Part, the term:

(a) "Easement area" means land, or interests therein, over which the Secretary administers an easement for wildlife management rights to assure preservation of habitat.

(b) "Compatible" means that the requested right-of-way or use will not interfere with or detract from the historic and scientific purposes for which a national wildlife monument was established. The term "inconsistent" in Section 98(b)(1) of the Mineral Leasing Act of 1920, as amended by Pub. L. 93-153, shall be deemed to mean to use that is "not compatible", as "compatible" is defined herein.

(c) "Department" means U.S. Department of the Interior unless otherwise specified.

§ 100.21.1 Purpose and scope.

The regulations in this subpart prescribe the procedures for filing applications and terms and conditions under which rights-of-way over and across the lands administered by the U.S. Fish and Wildlife Service as national wildlife monuments may be granted.

(a) National Wildlife Monuments. Applications for all forms of rights-of-way on or over such lands shall follow application procedures set out in § 100.21.2. No right-of-way will be approved unless it is determined by the Area Director to be compatible. See § 100.21.8 for additional requirements applicable to rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(b) National Wildlife Monument lands-easement interest. Applications for all forms of rights-of-way across lands in which the United States owns only an easement interest may be submitted to the Area Director in letter form. No map exhibit is required, however, the affected land should be described in the letter or shown on a map sketch. If the requested right-of-way will not adversely affect the United States' interest, as the Area Director may issue a letter stating that the interest, the Area Director may issue a letter stating that the interest of the United States to the right-of-way easement would not be affected provided there would be no objection to a right-of-way by the fee owner. If the interest of the United States will be affected, application for the rights-of-way must be submitted in accordance with procedures set out in § 100.21.2.

§ 100.21.2 Application procedures.

(a) *Application.* (1) No special form of application is required. The application should state the purpose for which the right-of-way is being requested together with the length, width on each side of the centerline, and the estimated acreage. Applications, including exhibits, shall be filed in triplicate with the Area Director at the following address: Area Director, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska, 99503.

(2)(i) All applications filed pursuant to this subpart in the name of individuals, corporations, or associations must be accompanied by a *nonreturnable application fee*. No applications fee will be required of (A) State or local governments or agencies or instrumentalities thereof except as to rights-of-way, easements, or permits under section 28 of the Mineral Leasing

Act of 1920, as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Application fees will be in accordance with the following schedule:

(A) For linear facilities (e.g., powerlines, pipelines, roads, etc.)

Length	Payment
Less than 5 miles.....	\$50 per mile or fraction thereof.
5 to 20 miles.....	\$500.
20 miles and over.....	\$500 for each 20 miles or fraction thereof.

(B) For nonlinear facilities. \$250 for each 40 acres or fraction thereof.

(C) Where an application includes both linear and nonlinear facilities, payment will be the aggregate of amounts under paragraphs (a)(2)(ii) (A) and (B) of this section.

(D) When an application is received, the Area Director will estimate the cost expected to be incurred in processing the application. If the estimated costs expected to be incurred in processing the application exceed the payments under paragraphs (a)(2)(ii) (A), (B), or (C) of this section by an amount greater than the cost of maintaining actual cost records, the Area Director shall require the application to make periodic payments in advance of the incurrence of such costs by the United States except for the last payment which will reflect final reimbursement of actual costs of the United States in processing the application. Overpayments may be refunded or adjusted by the Area Director as appropriate.

(E) The Area Director shall, on request by an applicant or prospective applicant, give an estimate based on the best available cost information, of the costs which would be incurred by the United States in processing an application. However, reimbursement will not be limited to the estimate if the actual costs exceed the estimate. Prospective applicants are encouraged to consult with the Area Director in advance of filing an application in regard to probable costs and other requirements.

(3)(i) By accepting an easement or permit under this subpart, the holder agrees to reimburse the United States for reasonable costs incurred by the Fish and Wildlife Service in monitoring the construction, operation, maintenance and termination of facilities within or adjacent to the easement or permit area. No reimbursement of monitoring costs will be required of (A) State or local governments or agencies or instrumentalities thereof except as to rights-of-way, easements, or permits

granted under Section 28 of the Mineral Leasing Act of 1920 as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Within 60 days of the issuance of an easement or permit the holder must submit a nonreturnable payment in accordance with the following:

(A) For linear facilities (e.g., powerlines, pipelines, roads, etc.)

Length	Payment
Less than 5 miles.....	\$20 per mile or fraction thereof.
5 to 20 miles.....	\$200.
20 miles and over.....	\$200 for each 20 miles or fraction thereof.

(B) For nonlinear facilities, \$100 for each 40 acres or fraction thereof.

(C) Where an easement or permit includes both linear and nonlinear facilities, payment will be the aggregate amounts under paragraphs (a)(3)(2) (ii) (A) and (B) of this section.

(D) When an easement or permit is granted the Area Director shall estimate the costs, based on the best available cost information, expected to be incurred by the United States in monitoring holder activity. If the estimated costs exceed the payments under paragraphs (a)(3)(2)(ii), (A), (B), or (C) of this section by an amount which is greater than the cost of maintaining actual cost records for the monitoring process, the Area Director shall require the holder to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Overpayments may be refunded or adjusted by the Area Director as appropriate.

(E) Following the termination of an easement or permit, the former holder will be required to pay additional amounts to the extent the actual costs to the United States have exceeded the payments required by paragraphs (a)(3)(ii)(A), (B), and (C) of this section.

(4) All applications filed pursuant to this subpart must include a detailed environmental analysis which shall include information concerning the impact of the proposed use of the environment including the impact upon the scientific and historic values of the national wildlife monument including but not limited to air and water quality, scenic and aesthetic features, historic, archeological, and cultural features, wildlife, fish and marine life. In the case of rights-of-way for roads, the application shall also analyze the environmental impacts of all other alternative routes whether within or outside the monument and shall describe the technological and

economical feasibility of such alternatives.

The analysis shall include sufficient data so as to enable the Service to prepare an environmental assessment and/or impact statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and comply with the requirements of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Archeological and Historic Preservation Act of 1974, (16 U.S.C. 469 et seq.), The Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.), Executive Order 11593 "Protection and Enhancement of the Cultural Environment" of May 13, 1971 (36 FR 8921), and "Procedures for the Protection of Historic and Cultural Properties" (36 CFR 800). Concerning the National Environmental Policy Act, the Area Director may, at his discretion, rely on an environmental assessment or impact statement prepared by a "lead agency".

(b) Maps. A map or plat must accompany each copy of the application and must show the rights-of-way in such detail that the right-of-way can be accurately located on the ground. Ties to Service land boundary corner monuments or some prominent cultural features which can be readily recognized and recovered should be shown where the rights-of-way enters and leaves monument land together with courses and distances of the centerline. The width of the rights-of-way on each side of the centerline together with the acreage included within the right-of-way or site must also be shown. If the rights-of-way or site is located wholly within Service project land, a tie to a Government corner or prominent cultural feature which can be readily recognized and recovered should be shown.

§ 100.21.3 Nature of Interest granted.

(a) Where the land administered by the Secretary is owned in fee by the United States and the proposed use is compatible with the purposes for which the monument was established, a permit or easement may be approved and granted by the Area Director. Generally an easement or permit will be issued for a term of 50 years or so long as it is used for the purpose granted, or for a lesser term when considered appropriate. For rights-of-way granted under authority of Section 28 of the Mineral Leasing Act of 1920, as amended, for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, the grant may be for a term not to exceed 30 years and the right-of-way may not

exceed 50 feet, plus the area occupied by the pipeline and its related facilities unless the Area Director finds, and records the reasons for his finding that in his judgment, a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include by are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, etc. However, a temporary permit supplementing a right-of-way may be granted for additional land needed during construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

(b) Unless otherwise provided, no interest granted shall give the grantee any right whatever to remove any material, earth, or stone for construction or other purpose, except that stone or earth necessarily removed from the right-of-way in the construction of a project may be used elsewhere along the same right-of-way in the construction of the same project.

§ 100.21.4 Terms and conditions.

(a) Any right-of-way easement or permit granted will be subject to outstanding rights if any, in third parties.

(b) An applicant, by accepting an easement or permit agrees to such terms and conditions as may be prescribed by the Area Director in the granting document. Such terms and conditions shall include the following, unless waived in part by the Area Director, and may include additional special stipulations at his discretion. See § 100.21.8 for special requirements for electric powerlines and § 100.21.9 for special requirements for oil and gas pipelines.

(1) To comply with State and Federal laws applicable to the project within which the easement or permit is granted, and to the lands which are included in the easement or permit area, and lawful existing regulations thereunder.

(2) To clear and keep clear the lands within the easement or permit area to the extent and in the manner directed by the project manager in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such a manner as to decrease the fire hazard and also in accordance with such instructions as the project manager may specify.

(3) To prevent the disturbance or removal of any public land survey

monument or project boundary monument unless and until the applicant has requested and received from the Area Director approval of measures the applicant will take to perpetuate the location of aforesaid monument.

(4) To take such soil and resource conservation and protection measures on the land covered by the easement or permit as the project manager in charge may request and to comply with any terms or conditions imposed by the Area Director to assure protection of the interests of local rural residents living in the general area of the right-of-way or permit who rely upon the fish, wildlife and biotic resources of the area for subsistence uses.

(5) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near lands to be occupied under the easement or permit area, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.

(6) To rebuild and repair such roads, fences, structures, and trails as may be destroyed or injured by construction work and, upon request by the Area Director, to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the easement or permit.

(7) To pay the United States the full value for all damages to the lands or other property of the United States caused by him or his employees, contractors, or agents of the contractors, and to indemnify the United States against any liability for damages to life, person, or property arising from the occupancy or use of the lands under the easement or permit, except where the easement or permit is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages. Grants of easements of permits involving special hazards will impose liability without fault for injury and damage to the land and property of the United States up to a specified maximum limit commensurate with the foreseeable risks or hazards presented. The amount of no-fault liability for each occurrence is hereby limited to no more than \$1,000,000.

(8) To notify promptly the project manager in charge of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the

construction and maintenance of the project, and to pay the United States in advance of construction such sum of money as the project manager may determine to be the full stumpage value of the timber to be so cut, removed, or destroyed.

(9) That all or any part of the easement or permit granted may be suspended or terminated by the Area Director for failure to comply with any or all terms and conditions of the grant, or for abandonment. A rebuttable presumption of abandonment is raised by deliberate failure of the holder to use for any continuous 2-year period the easement or permit for the purpose for which it was granted or renewed. In the event of noncompliance or abandonment, the Area Director will notify in writing the holder of the easement or permit of his intention to suspend or terminate such grant 60 days from the date of the notice, stating the reasons therefor, unless prior to that time the holder completes such corrective actions as are specified in the notice. The Area Director may grant an extension of time within which to complete corrective actions when, in his judgment, extenuating circumstances not within the holder's control such as adverse weather conditions, disturbance to wildlife during breeding periods or periods of peak concentration, or other compelling reasons warrant. Should the holder of a right-of-way issued under authority of the Mineral Leasing Act, as amended, fail to take corrective action within the 60-day period, the Area Director will provide for an administrative proceeding pursuant to 5 U.S.C. 554, prior to a final Departmental decision to suspend or terminate the easement or permit. In the case of all other right-of-way holders, failure to take corrective action within the 60-day period will result in a determination by the Area Director to suspend or terminate the easement or permit. No administrative proceeding shall be required where the easement or permit terminates under its terms.

(10) To restore the land to its original condition to the satisfaction of the Area Director so far as it is reasonably possible to do so upon revocation and/or termination of the easement, or permit, unless this requirement is waived in writing by the Area Director. Termination also includes permits or easements that terminate under the terms of the grant.

(11) To keep the project manager informed at all times of his address, and, in case of corporations, of the address of its principal place of business and the

names and addresses of its principal officers.

(12) To ensure that all construction and maintenance operations are conducted in a manner which is compatible with the historic and scientific values of the national wildlife monument.

(13) That in the construction, operation, and maintenance of the project, he shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin and shall require an identical provision to be included in all subcontracts.

(14) That the grant of the easement or permit shall be subject to the express condition that the exercise thereof will not unduly interfere with the management or administration by the United States of the land affected thereby. The applicant agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the easement or permit area not actually occupied for the purpose of the granted rights to the extent that it does not interfere with the full and safe utilization thereof by the holder. The holder of an easement or permit also agrees that authorized representatives of the United States shall have the right of access to the easement or permit area for the purpose of making inspections and monitoring the construction, operation and maintenance of facilities.

(15) That the easement or permit herein granted shall be subject to the express covenant that any facility constructed thereon will be modified or adapted, if such is found by the Area Director to be necessary, without liability or expense to the United States, so that such facility will not conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the United States. Any such modification will be planned and scheduled so as not to interfere unduly with or to have minimal effect upon continuity of energy and delivery requirements.

(16) That the easement or permit herein granted shall be for the specific use described and may not be construed to include the further right to authorize any other use within the easement or permit area unless approved in writing by the Area Director.

§ 100.21.5 Construction.

(a) If construction is not commenced within two (2) years after date of right-of-way grant, the right-of-way may be

canceled by the Area Director at his discretion.

(b) Proof of construction: Upon completion of construction, the applicant shall file a certification of completion with the Area Director.

§ 100.21.6 Transfer or termination of interest.

(a) Transfer of easement or permit. Any proposed transfer, by assignment, lease, operating agreement, or otherwise of an easement or permit must be filed in triplicate with the Area Director and must be supported by a stipulation that the transferee agrees to comply with and be bound by the terms and conditions of the original grant. A \$25 nonreturnable service fee must accompany the proposal. No transfer will be recognized unless and until approved in writing by the Area Director.

(b) Disposal of property on termination of right-of-way. In the absence of any agreement to the contrary, the holder of the right-of-way will be allowed 6 months after termination to remove all property or improvements other than a road and useable improvements to a road, placed thereon by him; otherwise, all such property and improvements shall become the property of the United States. Extensions of time may be granted at the discretion of the Area Director.

§ 100.21.7 Payment required.

(a) Payment for use and occupancy of lands under the regulations of this subpart will be required and will be for fair market value as determined by appraisal by the Area Director. At the discretion of the Area Director, the payment may be a lump sum payment or an annual fair market rental payment, to be made in advance. If any Federal, State or local agency is exempted from such payment by any other provision of Federal law, such agency shall otherwise compensate the Service by any other means agreeable to the Area Director, including, but not limited to, making other land available or the loan of equipment or personnel, except that any such compensation shall relate to, and be consistent with the objectives of the national wildlife monument. The Area Director may waive such requirement for compensation if he finds such requirement impracticable or unnecessary.

(b) When annual rental payments are used, such rates shall be reviewed by the Area Director at any time within 5 years of the grant of the permit, right-of-way, or easement or the last revision of

charges thereunder. The Area Director will furnish a notice in writing to the holder of an easement or permit of intent to impose new charges to reflect fair market value commencing with ensuing charge year. The revised charges will be effective unless the holder files an appeal in accordance with § 100.22.

(c) In instances where damage to a national wildlife monument will result, the Area Director may require mitigation measures, as determined by him, within the easement or permit area or on adjacent Service land or replacement land to make the proposed use compatible with the purposes for which the monument was established. Such mitigation measures, and/or the replacement of land are solely for the purpose of complying with the requirement that the use be compatible with the purpose for which the area was established and shall be in addition to the payment of fair market value.

§ 100.21.8 Electric power transmission line rights-of-way.

By accepting a right-of-way for a power transmission line, the applicant thereby agrees and consents to comply with and be bound by the following terms and conditions, except those which the Secretary may waive in a particular case, in addition to those specified in Section 100.21.4(b).

(a) To protect in a workmanlike manner, at crossings and at places in proximity to his transmission lines on the right-of-way authorized, in accordance with the rules prescribed in the National Electric Safety Code, all Government and other telephone, telegraph and power transmission lines from contact and all highways and railroads from obstruction and to maintain his transmission lines in such manner as not to menace life or property.

(b) Neither the privilege nor the right to occupy or use the lands for the purpose authorized shall relieve him of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated, or maintained by him on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.

(c) Each application for authority to survey, locate, commence construction work, and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts

or higher under this subpart shall be referred to the Secretary of the Department of Energy to determine the relationship of the proposed facility to the power marketing program of the United States. Where the proposed facility will not conflict with the program of the United States, the Area Director, upon notification to that effect, will proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the facility in order to eliminate conflicts with the power marketing program of the United States, the Area Director shall obtain from the applicant written consent to or compliance with, such requirements before taking further action on the application: Provided, however, That if increased cost to the applicant will result from changes to eliminate conflicts with the power marketing program of the United States, and it is determined that a right-of-way should be granted, such changes will be required upon equitable contract arrangements covering costs and other appropriate factors.

(d) The applicant shall make provision or bear the reasonable cost (as may be determined by the Secretary) of making provision, for avoiding inductive or conductive interference between any transmission facility or other works constructed, operated, or maintained by it on the right-of-way authorized under the grant and any radio installation, telephone line, or other communication facilities existing when the right-of-way is authorized or any such installation, line or facility thereafter constructed or operated by the United States or any agency thereof. This provision shall not relieve the applicant from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive or conductive interference.

(e) An applicant for a right-of-way for a transmission facility having a voltage of 66 kilovolts or more must, in addition to the requirements of § 100.21.2, execute and file with the application a stipulation agreeing to accept the right-of-way subject to the following conditions:

(1) In the event the United States, pursuant to law, acquires the applicant's transmission or other facilities constructed on or across such right-of-way the price to be paid by the United States shall not include or be affected by any value of the right-of-way granted to the applicant under authority of the regulations of this part.

(2) The Department of Energy shall be allowed to utilize for the transmission of

electric power and energy any surplus capacity of the transmission facility in excess of the capacity needed by the holder of the grant (subsequently referred to in this paragraph as "holder") for the transmission of electric power and energy in connection with the holder's operations, or to increase the capacity of the transmission facility at the Department's expense and to utilize the increased capacity for the transmission of electric power and energy. Utilization by the Department of surplus or increased capacity shall be subject to the following terms and conditions:

(i) When the Department desires to utilize surplus capacity thought to exist in the transmission facility, notification will be given to the holder and the holder shall furnish to the Department within 30 days a certificate stating whether the transmission facility has any surplus capacity not needed by the holder for the transmission of electric power and energy in connection with the holder's operations and, if so, the amount of such surplus capacity.

(ii) Where the certificate indicates that there is no surplus capacity or that the surplus capacity is less than that required by the Department, the authorized officer may call upon the holder to furnish additional information upon which its certification is based. Upon receipt of such additional information, the authorized officer shall determine, as a matter of fact, if surplus capacity is available and, if so, the amount of such surplus capacity.

(iii) In order to utilize any surplus capacity determined to be available, or any increased capacity provided by the Department at its own expense, the Department may interconnect its transmission facilities with the holder's transmission facility in a manner conforming to approved standards of practice for the interconnection of transmission circuits.

(iv) The expense of interconnection will be borne by the Department, and the Department will at all times provide and maintain adequate protective equipment to insure the normal and efficient operation of the holder's transmission facilities.

(v) After any interconnection is completed, the holder shall operate and maintain its transmission facilities in good condition, and, except in emergencies, shall maintain in a closed position all connections under the holder's control necessary to the transmission of the Department's power and energy over the holder's transmission facilities. The parties may by mutual consent open any switch

where necessary or desirable for maintenance, repair or construction.

(vi) The transmission of electric power and energy by the Department over the holder's transmission facilities will be effected in such manner as will not interfere unreasonably with the holder's use of the transmission facilities in accordance with the holder's normal operating standards except that the Department shall have the exclusive right to utilize any increased capacity of the transmission facility which has been provided at the Department's expense.

(vii) The holder will not be obligated to allow the transmission of electric power and energy by the Department to any person receiving service from the holder on the date of the filing of the application for a grant, other than statutory preference customers including agencies of the Federal Government.

(viii) The Department will pay to the holder an equitable share of the total monthly cost of that part of the holder's transmission facilities utilized by the Department for the transmission of electric power and energy, the payment to be an amount in dollars representing the same proportion of the total monthly cost of such part of the transmission facilities as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the Department over the holder's transmission facilities bears to the total capacity in kilowatts of that portion of the transmission facilities. The total monthly cost will be determined in accordance with the system of accounts prescribed by the Federal Power Commission, exclusive of any investment by the Department in the part of the transmission facilities utilized by the Department.

(ix) If, at any time subsequent to a certification by the holder, or determination by the authorized officer, that surplus capacity is available for utilization by the Department, the holder needs for the transmission of electric power and energy in connection with the operations the whole or any part of the capacity of the transmission facility theretofore certified or determined as being surplus to its needs, the holder may request the authorized officer to modify or revoke the previous certification or determination by making application to the authorized officer not later than 36 months in advance of the holder's needs. Any modification or revocation of the certification or determination shall not affect the right of the Department to utilize facilities provided at its expense or available under a contract entered into by reason of the equitable contract arrangements provided for in this section.

(x) If the Department and the holder disagree as to the existence or amount of surplus capacity in carrying out the terms and conditions of this paragraph, the disagreement shall be decided by a board of three persons composed as follows: The holder and the authorized officer shall each appoint a member of the board and the two members shall appoint a third member. If the members appointed by the holder and the authorized officer are unable to agree on the designation of the third member, he shall be designated by the Chief Judge of the United States Court of Appeals of the circuit in which the major share of the facilities involved is located. The board shall determine the issue and its determination, by majority vote, shall be binding on the Department and the holder.

(xi) As used in this section, the term "transmission facility" includes (A) all types of facilities for the transmission of electric power and energy and facilities for the interconnection of such facilities, and (B) the entire transmission lines and associated facilities, from substation or interconnection point of which the segment crossing the lands of the United States forms a part.

(xii) The terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental agreement negotiated between the holder and the Secretary of the Interior or his designee.

§ 100.21.9 Rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(a) *Application procedure.* Applications for pipelines and related facilities under this section are to be filed in accordance with § 100.21.2 of these regulations with the following exception: When the right-of-way or proposed facility will occupy Federal land under the control of more than one Federal Agency and/or more than one Bureau or Office of the Department of the Interior, a single application shall be filed with the State Director of the Bureau of Land Management in accordance with regulations in 43 CFR Part 2800. Any portion of the facility occupying land within a National Wildlife Monument will be subject to the provisions of these regulations.

(b) Right-of-way grants under this section will be subject to the special requirements of Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, as set forth below. Gathering lines and associated structures used solely in the production of oil and gas under valid leases on the

lands administered by the Fish and Wildlife Service are excepted from the provisions of § 100.21.9.

(1) *Pipeline safety.* Rights-of-way, or permits granted under this section will include requirements that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline. An applicant must agree to design, construct, and operate all proposed facilities in accordance with the provisions of Parts 192 and/or 195 of Title 49 of the Code of Federal Regulations and in accordance with the Occupational Safety and Health Act of 1970, Pub. L. 91-596, including any amendments thereto.

(2) *Environmental protection.* An application for a right-of-way must contain environmental information required by § 100.21.2(a)(4) of this subpart. If the Area Director determines that a proposed project will have a significant affect on the environment, there must also be furnished a plan of construction, operation, and rehabilitation of the proposed facilities. In addition to terms and conditions imposed under § 100.21.4, the Area Director will impose such stipulations as may be required to assure: (i) restoration, revegetation and curtailment of erosion of the surface; (ii) that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards or related facilities siting standards established by law; (iii) control or prevention of damage to the environment including damage to fish and wildlife habitat, public or private property, and public health and safety; and (iv) protection of the interests of local rural residents living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence uses.

(c) *Disclosure.* If the applicant is a partnership, corporation, association, or other business entity it must disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 percentum of more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case

of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock that entity owned, directly or indirectly, by the affiliate.

(d) *Technical and financial capability.* The Area Director may grant or renew a right-of-way or permit under this section only when satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the facility. At the discretion of the Area Director, a financial statement may be required.

(e) *Reimbursement of costs.* In accordance with Section 100.21.2(a)(3) of this subpart, the holder of a right-of-way or permit must reimburse the Service for the cost incurred in monitoring the construction, operation, maintenance and termination of any pipeline or related facilities as determined by the Area Director.

(f) *Public hearing.* The Area Director shall give notice to Federal, State, and local government agencies, and the public, and afford them the opportunity to comment on right-of-way applications under this section. A notice will be published in the Federal Register and a public hearing shall be held in the affected vicinity.

(g) *Bonding.* Where appropriate, the Area Director may require the holder of a right-of-way or permit to furnish a bond, or other security satisfactory to him, to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation, not to exceed the period of construction plus one year or a longer period if necessary for the pipeline to stabilize.

(h) *Suspension of right-of-way.* If the Project Manager determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health and safety or the environment, the Project Manager may issue an emergency suspension order to abate such activities prior to an administrative proceeding. The Area Director must make a determination and notify the holder in writing within 15 days from the date of suspension as to whether the suspension should continue and list actions needed to terminate the suspension. Such suspension shall remain in effect for only so long as an emergency condition continues.

(i) *Joint use of right-of-way.* Each right-of-way or permit shall reserve to the Area Director the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit areas granted under

this section after giving notice to the holder and an opportunity to comment.

(j) *Common carriers.* (1) Pipelines and related facilities used for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom shall be constructed, operated, and maintained as common carriers.

(2)(i) The owners or operators of pipelines subject to this subpart shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands. (ii) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(i) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. (ii) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Area Director shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include but is not limited to: (i) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increase in demand; (ii) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (iii) minimum shipment or purchase tenders.

(k) *Limitations on export.* Any domestically produced crude oil transported by pipeline over rights-of-

way granted pursuant to Section 28 of the Mineral Leasing Act of 1920, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitation and licensing requirements of the Export Administration Act of 1969.

(l) *State standards.* The Area Director shall take into consideration, and, to the extent practical and consistent with the historical and scientific values for which the national wildlife monument was established, comply with, applicable State standards for right-of-way construction, operation, and maintenance.

(m) *Congressional notification.* The Secretary shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for a pipeline 24 inches or more in diameter, and no right-of-way for such a pipeline shall be granted until 60 days (not including days on which the House or Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way together with the Secretary's detailed findings as to terms and conditions he proposed to impose, has been submitted to the Committees, unless each Committee by resolution waives the waiting period.

§ 100.22 Hearing and appeals procedure.

An appeal may be taken from any final disposition of the Area Director, to the Director, U.S. Fish and Wildlife Service and from the latter's decision to the Secretary of the Interior. Such appeals may be taken pursuant to 43 CFR Part 4, Subpart G.

Subpart C—Mineral Operations

§ 100.31 Mineral rights reserved and excepted.

In the event of future Service acquisitions of private inholdings, persons holding mineral rights in national wildlife monument lands by reservation in the conveyance to the United States and persons holding minerals rights in such lands which rights vested prior to the acquisition of the lands by the United States shall, to the greatest extent practicable, conduct all exploration, development, and production operations in such a manner as to prevent damage, erosion, pollution, or contamination to the lands, waters,

facilities and vegetation of the area. So far as is practicable, such operations must also be conducted without interference with the administration of the monument or disturbance to the historic and scientific values of the monument including the fish or wildlife thereon. Physical occupancy of the area must be kept to the minimum space compatible with the conduct of efficient mineral operations. Persons conducting mineral operations on monument areas must comply with all applicable Federal and State laws and regulations for the protection of wildlife and the administration of the area. Oil field brine, slag, and all other waste and contaminating substances must be kept in the smallest practicable areas, must be confined so as to prevent escape as a result of rains and high water or otherwise, and must be removed from the area as quickly as practicable in such a manner as to prevent contamination, pollution, damage, or injury to the lands, waters, facilities, wildlife or vegetation of the monument. Structures and equipment must be removed from the area when the need for them has ended. Upon the cessation of operations, the area shall be restored as nearly as possible to its condition prior to the commencement of operations. Nothing in this section shall be applied so as to contravene or nullify rights vested in holders of mineral interests on national monument wildlife monument lands. See Part 107 [Reserved] or the emergency mining access regulations published on March 14, 1979 (44 FR 15500), whichever are in effect, for the provisions governing access and development for mining purposes for valid existing rights in claims upon Federal lands within national wildlife monuments.

PART 101—FERAL ANIMAL MANAGEMENT

Subpart A—Feral Animals

Sec.

101.11 Control of feral animals.

101.12 Disposition of feral animals.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 70 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 (43 FR 57009)).

Subpart A—Feral Animals

§ 101.11 Control of feral animals.

(a) Feral animals, including horses, burros, cattle, swine, sheep, goats, reindeer, dogs, and cats without ownership that have reverted to the wild from a domestic state may be taken within a national wildlife monument by authorized Federal or State personnel or

by private persons operating under permit in accordance with applicable provisions of Federal or State law or regulation.

§ 101.12 Disposition of feral animals.

Feral animals taken on a national wildlife monument may be disposed of by sale on the open market, gift or loan to public or private institutions for specific purposes.

PART 102—FISH AND WILDLIFE SPECIES MANAGEMENT

Subpart A—Surplus Fish and Wildlife

Sec.

102.1 Determination of surplus fish and wildlife populations.

102.2 Methods of surplus fish and wildlife population control and disposal.

Subpart B—Terms and Conditions of Fish and Wildlife Reduction and Disposal

102.11 Donation and loan of fish and wildlife specimens.

102.12 Commercial harvest of fishery resources.

102.13 Official animal control operations.

102.14 Trapping and sport hunting and fishing programs.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 (43 FR 57009)).

Subpart A—Surplus Fish and Wildlife

§ 102.1 Determination of surplus fish and wildlife populations.

The populations and requirements of fish and wildlife species on national wildlife monument areas shall be determined by population census, habitat evaluation, and other means of ecological study.

§ 102.2 Methods of surplus fish and wildlife population control and disposal.

Upon a determination that fish and wildlife are surplus to a balanced conservation program on any national wildlife monument area and that the reduction of such surplus is compatible with the purposes for which the monument was established, the surplus may be reduced or utilized in accordance with Federal and State law and regulation by:

(a) Donation or loan to public agencies and institutions.

(b) Commercial harvest of fishery resources.

(c) Official wildlife control operations.

(d) Hunting, fishing or trapping.

No assignment of priorities is implied in the above order of listing.

Subpart B—Terms and Conditions of Fish and Wildlife Reduction and Disposal

§ 102.11 Donation and loan of fish and wildlife specimens.

Fish and wildlife specimens may be donated or loaned to public institutions for specific purposes in accordance with a special use permit. Donation or loans of species of fish and wildlife will not be made unless the recipient has secured the approval of the State.

§ 102.12 Commercial harvest of fishery resources.

Commercial fishing may be allowed within a national wildlife monument under a special use permit issued by the monument manager in accordance with Federal and State law.

§ 102.13 Official animal control operations.

(a) Animal species which are surplus or detrimental to the management program of a national wildlife monument area may be taken in accordance with Federal and State law, but only if such taking is found to be compatible with the purposes for which the monument was created.

(b) Animal species which are damaging or destroying Federal property within a national wildlife monument area may be taken or destroyed by Federal personnel.

§ 102.14 Trapping and Sport hunting and fishing programs.

Trapping, and sport hunting and fishing may be extended to the general public under the provisions of regulations cited in Parts 103, 104 and 105 of this subchapter H.

PART 103—SPORT HUNTING

Subpart A—General Provisions

Sec.

103.11 Sport hunting authorization.

103.12 General provisions.

103.13 Procedure for publication of special regulations.

103.14 Migratory game bird special regulations for individual national wildlife monument areas. [Reserved].

103.15 Big game and small game special regulations for individual national wildlife monument areas. [Reserved].

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 (43 FR 57009)).

Subpart A—General Provisions

§ 103.11 Sport hunting authorization.

National wildlife monument areas shall be open to sport hunting so long as such activity is compatible with the

historic and scientific purposes for which the monument areas were established, provided that such hunting may be subject to closure or restrictions for reasons of public safety, administration, fish or wildlife management or resource protection.

§ 103.12 General provisions.

The following provisions shall apply to each person while engaged in sport hunting on a national wildlife monument area:

(a) Each person shall secure and possess the required State license.

(b) Each person 16 years of age and older shall secure and possess a Migratory Bird Hunting Stamp while hunting migratory waterfowl.

(c) Each person shall comply with all other applicable provisions of Federal and State law including any additional special regulations or restrictions established for a particular national wildlife monument.

(d) Each person shall comply with the terms and conditions authorizing access or use of the wildlife monument areas.

(e) Special regulations will be published in the Federal Register and will be available at the headquarters of the wildlife area to which they relate. A reference to special regulations governing hunting on wildlife monument areas will be made in § 103.14 and § 103.15, but these special regulations will not be set forth in their entirety in the Code of Federal Regulations.

(f) The use of any drug on any arrow for bow hunting on national wildlife monuments is prohibited. Archers may not have arrows employing such drugs in their possession on any national wildlife monument.

§ 103.13 Procedure for publication for special regulations.

(a) Special hunting regulations shall contain the following items:

(1) Wildlife species which may be hunted.

(2) Seasons.

(3) Bag limits.

(4) Methods of hunting.

(5) Description of areas closed to hunting.

(6) Other provisions as required.

(b) Special regulations are limited to one season and are issued annually and are effective upon publication in the Federal Register or in as many days thereafter as it is practical to allow under the particular circumstances.

(c) Special regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(d) Special regulations are published in the daily issue of the Federal Register but are not codified in the Code of Federal Regulations.

(e) Special regulations may be amended as needed to meet management responsibility due to unpredictable seasonal variation in wildlife population, habitat conditions, and other changeable factors.

§ 103.14 Migratory game bird special regulations for individual national wildlife monument areas. [Reserved].

§ 103.15 Big game and small game special regulations for individual national wildlife monument areas. [Reserved].

PART 104—SPORT FISHING

Sec.

104.11 Sport fishing authorization.

104.12 General regulations.

104.13 Procedure for publication of special regulations.

104.14 Special regulations; sport fishing; for individual wildlife monument areas. [Reserved].

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 (43 FR 57009)).

§ 104.11 Sport fishing authorization.

National Wildlife Monument areas shall be open to sport fishing so long as such activity is compatible with the historic and scientific purposes for which the monument areas were established, provided that such fishing may be subject restrictions for reasons of public safety, administration, fish or wildlife management, or resource protection.

§ 104.12 General regulations.

The following provisions shall apply to each person while engaged in sport fishing on a wildlife monument area:

(a) Each person shall secure and possess the required State license.

(b) Each person shall comply with all other applicable provisions of Federal and State law including any additional special regulations or restrictions established for a particular national wildlife monument.

(c) Each person shall comply with the terms and conditions authorizing access and use of the wildlife monument area.

(d) Special regulations will be published in the Federal Register and will be available at the headquarters of the wildlife monument area to which they relate. A reference to special regulations governing fishing on wildlife monument areas will be made in Section 104.15 but these special regulations will not be set forth in their entirety in the Code of Federal Regulations.

§ 104.13 Procedure for publication of special regulations.

(a) Special fishing regulations shall contain the following items:

(1) Species of fish which may be taken.

(2) Seasons.

(3) Creel limits.

(4) Methods of fishing.

(5) Description of areas closed to fishing.

(6) Other provisions as required.

(b) Special regulations are limited to one season and are issued annually and are effective upon publication in the Federal Register or in as many days thereafter as it is practical to allow under the particular circumstances.

(c) Special regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(d) Special regulations are published in the daily issue of the Federal Register but are not codified in the Code of Federal Regulations.

(e) Special regulations may be amended as needed to meet management responsibility due to unpredictable seasonal variation in wildlife population, habitat conditions, and other changeable factors.

§ 104.14 Special regulations; sport fishing; for individual national wildlife monument areas. [Reserved]

PART 105—TRAPPING

Subpart A—General Provisions

Sec.

105.11 Trapping authorization.

105.12 General provisions.

Subpart B—Trapping Program

105.21 Trapping program.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460 k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978 (43 FR 57009)).

Subpart A—General Provisions

§ 105.11 Trapping authorization.

National wildlife monument areas shall be open to trapping so long as such activity is compatible with the historic and scientific purposes for which the monuments were established; provided that such trapping may be subject to restrictions for reasons of public safety, administration, fish and wildlife management, or resource protection.

§ 105.12 General provisions.

The following provisions shall apply to each person while engaged in trapping on a national wildlife monument area:

(a) Each person shall secure and possess the required State license.

(b) Each person shall comply with all other applicable provisions of Federal and State law.

(c) Each person shall comply with the terms and conditions authorizing access or use of the national wildlife monument areas.

Subpart B—Trapping Program

§ 105.21 Trapping program.

Except as hereafter noted, persons trapping animals on Federal lands within a national wildlife monument shall secure and comply with the provisions of a Federal permit issued for that purpose. This permit shall specify the terms and conditions of such trapping activities. The number of permits issued may be subject to restrictions for reasons of public safety, administration, fish or wildlife management, or resource protection.

PART 106—SUBSISTENCE

Subpart A—Introduction

Sec.

106.11 Purpose and policy.

106.12 Definitions.

Subpart B—General Provisions

106.21 State regulation of subsistence uses.

106.22 Use of snowmobiles and motorboats for subsistence activities.

106.23 Subsistence use of timber and plant material.

106.24 Closure to subsistence uses.

Authority: (Sec. 3, 34 Stat. 225, 16 U.S.C. 432; Sec. 4, 76 Stat. 654, 16 U.S.C. 460 k-3; Sec. 7, 70 Stat. 1122, 16 U.S.C. 742f; Presidential Proclamations of Dec. 1, 1978, (43 FR 57009).)

Subpart A—Introduction

§ 106.11 Purpose and policy.

(a) The purpose of this Part is to provide for and regulate the opportunity to engage in a subsistence lifestyle in a national wildlife monuments by local rural residents who comply with applicable State and Federal law.

(b) It is the policy of the United States Fish and Wildlife Service that nonwasteful subsistence uses of fish, wildlife, and plant resources by local rural residents shall be the first priority consumptive use of such resources over other consumptive uses within a national wildlife monument, subject to the following limitations:

(1) Whenever it is necessary to restrict the taking of fish, wildlife or plant resources within a national wildlife monument for subsistence uses, such resources shall be allocated in accordance with a preference system based on the following criteria:

- (a) Local residency;
- (b) Customary and direct dependence upon the resources as the mainstay of one's livelihood; and
- (c) Availability of alternative resources.

(2) The subsistence use of populations of fish, wildlife or plant resources shall be appropriately regulated so as to prevent a significant expansion of such use beyond the level occurring during the ten-year period before January 1, 1979, as determined by available research on subsistence uses in the area. In each case, the level of harvest constituting such a significant expansion of the subsistence use of populations of fish, wildlife or plants will be determined within two years after final publication of these regulations. These determinations will be based on criteria to be developed after consultation with interested parties, including the State of Alaska and local rural residents.

(3) The monument manager of a national wildlife monument may restrict or prohibit the subsistence use of a particular population of fish, wildlife or plants for reasons of public safety, administration, or to ensure the natural stability and continued viability of the particular population.

§ 106.12 Definitions.

As used in this Part, the term: "*Subsistence uses*" shall mean the customary and traditional uses by local rural residents of wild, renewable resources for personal or family use or consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of the nonedible byproducts of fish and wildlife resources taken for personal or family use or consumption; for barter or sharing for personal or family use or consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "family" shall mean all local rural residents related by blood, marriage, or adoption, or any person living within another person's household on a permanent basis;

(2) "barter" shall mean the exchange of fish or wildlife or their parts—

(i) For other fish or wildlife or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "customary trade" shall be limited to the exchange of furs for cash.

Subpart B—General Provisions

§ 106.21 State regulation of subsistence uses.

(a) To the extent consistent with the provisions of this Subchapter H, the laws and regulations of the State of Alaska shall govern the taking of fish and wildlife by local rural residents for subsistence uses. Such State laws and regulations are hereby incorporated by reference as part of the regulations of this Part 106.

(b) The State of Alaska may regulate, in a manner consistent with the purposes for which the monument was created, the provisions of § 106.11(b)(1) and (2) of this Part, and other applicable Federal law, the taking of fish and wildlife within a national wildlife monument by local rural residents for subsistence uses.

(c) The Area Director shall monitor the State's regulation of the taking of fish and wildlife by local rural residents for subsistence uses. If the Area Director determines that the State's regulatory program does not meet the requirements of paragraph (b) of this section, then the State shall be notified and, after consultation with the appropriate State authority and an informal public hearing in the affected vicinity, the Area Director shall indicate those changes necessary to bring the State's regulatory program into compliance with the requirements of paragraph (b) of this section.

(d) If, after a reasonable opportunity, the State fails to make the changes indicated by the Area Director pursuant to paragraph (c) of this section, the Area Director shall impose such restrictions as he deems necessary to bring the State's subsistence regulatory program into compliance with the requirements of paragraph (b) of this section. Such restrictions may include regulations governing methods and means of take, access, season lengths, bag limits, harvest quotas, the establishment of resident zones, and may also include the closure of all or part of the affected monument to all consumptive uses of a particular species of fish or wildlife except subsistence uses by local rural residents.

(e) The Director shall afford the State an opportunity to appeal such restrictions or closure imposed pursuant to the provisions of paragraph (d) of this section. Within thirty days after receipt of notice of such appeal, the Director shall afford the State an informal public hearing, and within thirty days after such hearing, shall make a final decision on such appeal. Unless the Director determines that the State is not in

compliance with the requirements of Subsection (b) of this Section, the restrictions or closure imposed by the Area Director shall be revoked. If the Director determines that the State is not in compliance with the requirements of paragraph (b) of this section, the restrictions imposed by the Area Director shall continue until such time as the State takes appropriate and timely action or the Area Director determines, after notice and informal public hearing in the affected vicinity, that the need for the restrictions has otherwise been ameliorated.

(f) Nothing in this Section shall be deemed to affect the monument manager's closure authority over trapping or sport hunting or fishing set forth in Parts 102, 103, and 104 and 105 of this Subchapter H.

§ 106.22 Use of snowmobiles and motorboats for subsistence activities.

(a) Notwithstanding any other provision of this Subchapter H, the use of snowmobiles and motorboats by local rural residents for subsistence hunting, fishing, and gathering activities is permitted within the national wildlife monuments except at those times and in those areas restricted or closed by the monument manager. In determining whether to restrict the use of snowmobiles or motorboats for subsistence activities or to temporarily or permanently close a route or area to snowmobile or motorboat use for subsistence activities, the monument manager shall be guided by the criteria contained in Section 3 of Executive Order No. 11644 (37 FR 2877) and shall consider factors such as effects on public health and safety, soil, vegetation, fish or wildlife, fish or wildlife habitat, endangered and threatened species and their habitats, scientific and historic resources, and other management considerations necessary to ensure that snowmobile or motorboat use for subsistence purposes is compatible with the purposes for which the monument was established. Except in emergency situations, no restrictions or closures shall be imposed without a prior informal public hearing in the affected vicinity. In the case of emergency situations restrictions or closures shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the monument manager establishes, after notice and an informal public hearing, that such extension is justified for reasons set forth above in this subsection which may warrant closure. Notice of the proposed or emergency restrictions or closures shall be

published in at least one newspaper of general circulation within the State, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions or closures shall be designated on a map which shall be available for public inspection at the office of the monument manager of the affected monument and the Post Office or postal authority for every affected community within or near the monument, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(b) Snowmobiles and motorboats permitted for subsistence uses in accordance with this Section shall be operated in compliance with applicable State and Federal law, including any seasonal restrictions on snowmobile use established under this Subchapter H, and in such a manner as to prevent waste or damage to the national wildlife monuments or any parts or values thereof. They shall not be operated in any manner that will result in the hearing, harassment, hazing or driving of wildlife for hunting or other purposes. See §§ 98.31 and 98.32 regarding the use of snowmobiles and boats for recreational purposes.

§ 106.23 Subsistence use of timber and plant material.

Notwithstanding any other provision of this Subchapter H, the noncommercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in accordance with a special use permit issued by the monument manager of the affected national wildlife monument if such cutting is determined to be compatible with the purposes for which the monument was established. The noncommercial gathering of fruits, berries, mushrooms and other plant materials for subsistence uses and the noncommercial collection of dead or downed wood for firewood shall be allowed without a permit.

§ 106.24 Closure to subsistence uses.

Notwithstanding any other provision of this Part, the monument manager, after consultation with the State and adequate notice and informal public hearing, may close all or any portion of a national wildlife monument to subsistence uses or take such other measures as may be necessary to provide for the public safety, administration, or to ensure the natural stability and continued viability of one

or more population of fish, wildlife or plants. If the monument manager determines that an emergency situation exists and that extraordinary measures must be taken to provide for the public safety, or to ensure the natural stability and continued viability of one or more fish, wildlife or plant population, the monument manager may immediately close all or any portion of a national wildlife monument to the subsistence uses of the particular resource population, or take such other measures as may be necessary. Such emergency closure or measure shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the monument manager establishes, after notice and informal hearing, that such extension is necessary for reasons justifying any type of closure pursuant to the provisions of this Section. Notice of administrative actions, and the reasons justifying such actions, taken pursuant to this Section shall be published in at least one newspaper of general circulation within the State and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity.

PART 107—MINING ACCESS AND DEVELOPMENT [Reserved]

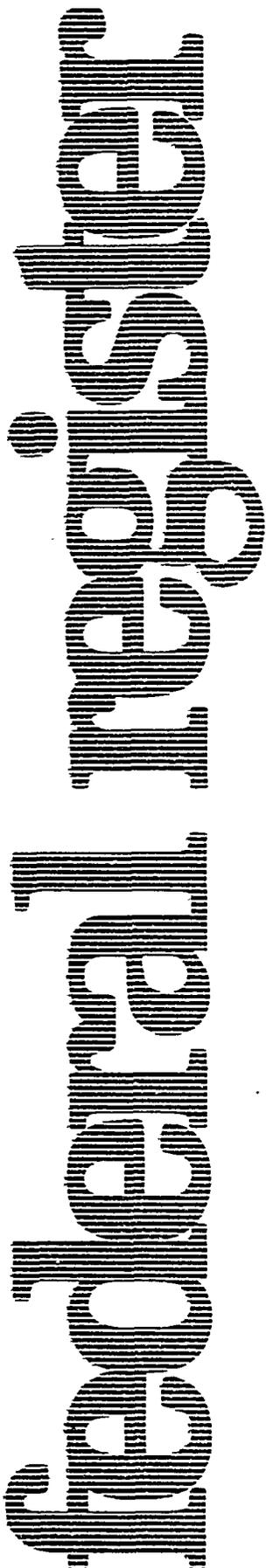
[FR Doc. 79-19940 Filed 6-27-79; 8:45 am]
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Thursday
June 28, 1979

Part IV

**Department of
Energy**

**Federal Loan Guarantees for Alternative
Fuel Demonstration Facilities; Proposed
Rulemaking**



DEPARTMENT OF ENERGY

[10 CFR Part 796]

Federal Loan Guarantees for Alternative Fuel Demonstration Facilities; Proposed Rulemaking and Written Comments

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and written comments.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a proposal to establish regulations providing for the implementation of loan guarantees and other assistance for Alternative Fuel Demonstration Facilities Program (hereinafter referred to as AFDP) as authorized in Section 207 of Title II of the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238). This Act provides loan guarantee authority for construction of commercial or modular-size facilities for the demonstration of the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuel; cooperative agreement authority for modular-size demonstration facilities for the conversion of domestic oil shale into fuel; and authority for community impact assistance necessitated by the construction of an alternative fuel demonstration facility assisted under Subsection 19(b) of this Act.

In the preparation of this regulation, DOE determined that the procedures required to implement Subsection 19(b) (and other subsections applicable thereto) were unduly complex and would delay the timely consideration of demonstration projects. However, the availability of a viable loan guarantee authority in DOE for the demonstrations of alternative fuel projects is necessary to bring to commercialization new technologies for energy supplies. To accomplish this objective, the President has directed DOE, as part of his energy message, to submit to Congress a proposal to streamline DOE's loan guarantee authority for a broad range of energy technology demonstrations.

Pursuant to the President's mandate, DOE has prepared draft legislation which it will shortly submit to Congress for its consideration. This legislation, if enacted, would delete Subsection 19(b) (and other related subsections) of this Act. However, DOE is still required to consider and issue this regulation pursuant to Subsection 19(i) of this Act. Therefore, DOE has decided at this time to meet this requirement by publishing

this proposed regulation for public comment. However, public hearings on this regulation have not been scheduled nor has a closing date for the submission of comments been specified. Nevertheless, DOE encourages the submission of comments since many of the provisions of this regulation may still be necessary in implementing the proposed draft legislation. In the event Congress does not enact the draft legislation, DOE will publish a notice in the Federal Register establishing public hearings on the regulation and a closing date for written comments.

DATE: Comment due date not yet determined. See Summary statement above.

ADDRESS: Send comments to: Michael J. Perper, Office of Resource Applicants, Room 3324, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Department of Energy, Michael J. Perper (Office of Resource Applications), Room 3324, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-633-8377 or 633-8319.

Department of Energy, Leonard Rawicz (Office of General Counsel), Room 6F055, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20461, 202-252-6967.

Department of Energy, Verlette Gatlin (FOI-Public Reading Room), Forrestal Building, Room GA152, 1000 Independence Avenue SW., Washington, D.C. 20461, 202-252-5969.

Department of Energy, Mr. Robert Gillette (DOE Public Hearing Management), Room 2313, 2000 M Street NW., Washington, D.C. 20461, 202-254-5201.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Proposed Regulation.
- III. Program Information.
- IV. Comment Procedures.

I. Background

On February 25, 1978, the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238) was enacted. Section 207 of Title II of Pub. L. 95-238 amended the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93-577, (hereafter referred to as the "Act") by adding a new Section 19 for AFDP.

Subsection 19(b) (and related subsections) of this Act provides the Secretary with the authority to assist, through loan guarantees, the construction, startup, and related costs for commercial or modular-size facilities for the demonstration of the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuel in an environmentally acceptable manner; and provides the

Secretary with the authority to assist, through cooperative and loan guarantee agreements, the construction, startup, and related costs for modular-size facilities for the conversion of domestic oil shale into fuel. Subsection 19(k) provides the Secretary with the authority to provide community impact assistance (in the form of grants, loan guarantees, direct loans or require the applicant obtaining financial assistance for its demonstration facility to internalize the socioeconomic costs into the demonstration facility) for the planning and essential community development that directly results from, or is necessitated, by, one or more alternative fuel demonstration facilities assisted under Subsection 19(b) of the Act. Some additional highlights of this Act follow.

Subsection 19(c) provides the Secretary with the authority to make guarantees only where such guarantees are necessary to encourage financial participation in an AFDP demonstration facility. Guarantees are limited to not more than 75 percent of the demonstration facility's total cost as estimated at the time the guarantee is issued. Further, Subsection 19(c)(2)(B) authorizes a maximum of 60 percent on the amount guaranteed to a borrower for overruns. Before a guarantee may be issued, the Secretary must determine that there will be a continued reasonable assurance of full repayment on the part of the borrower (Subsection 19(a)(3)) and that the obligation's maximum maturity is the lesser of 20 years or 90 percent of the facility's projected useful economic life (Subsection 19(c)(6)).

Subsection 19(b)(6) of the Act provides that loan guarantees, to the extent possible, be issued on the basis of competitive bidding among guarantee applicants in a particular energy technology area. Subsection 19(d) requires that DOE request from the Attorney General and the Chairman of the Federal Trade Commission (FTC) written views, comments and recommendations concerning the impact of each proposed loan guarantee and cooperative agreement on competition and concentration in the production of energy. If either the Attorney General or Chairman of the FTC recommends against making such guarantee, the Secretary may refer the matter to the President for his determination on whether it is in the national interest to award the loan guarantee or enter into a cooperative agreement.

Subsection 19(e) of the Act requires that as soon as the Secretary knows the geographic location of a proposed

facility for which a guarantee or cooperative agreement is sought, the Secretary shall inform the governor of the state, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Secretary shall not guarantee or enter into a cooperative agreement if the governor of the state in which the proposed facility would be located recommends that such action not be taken, unless the Secretary finds an overriding national interest in taking such action. If the Secretary decides to guarantee or enter into a cooperative agreement despite the governor's recommendation not to take such action, the burden is on the Secretary to show that the location of the particular demonstration in the governor's state is indeed in the national interest. The Secretary's decision to award a guarantee or enter into a cooperative agreement is subject to judicial review initiated by that governor and filed within 90 days after that decision in accordance with 5 U.S.C. 706(2)(A) through (D).

Subsection 19(m) of the Act provides that the Secretary of Energy shall not finalize any loan guarantee, commitment to guarantee, or cooperative agreement for a demonstration facility costing in excess of \$50 million unless such guarantee, commitment, or cooperative agreement is specifically authorized by Congress, or both Houses of Congress pass a resolution approving such guarantee or commitment to guarantee, or cooperative agreement. For demonstration facilities costing less than \$50 million, the Secretary shall not finalize any loan guarantee, commitment to guarantee or cooperative agreement until loan guarantee or cooperative agreement authority is provided by Congress. Prior to entering into any guarantee or commitment to guarantee, or cooperative agreement, appropriation authority pursuant to Subsection 19(u) of the Act must also be obtained. Subsection 19(m) of the Act also requires the Secretary to submit a report (on the proposed demonstration facility for which a loan guarantee or cooperative agreement is being sought by an applicant(s)) to the Chairman of the Committee on Science and Technology of the House of Representatives and to the Chairman of the Committee on Natural Resources of the Senate. This subsection also requires that the guarantee or cooperative agreement shall not be finalized by the Secretary prior to the expiration of 90 calendar days from receipt of the above-mentioned report by such committees.

Subsections 19(b)(3) and (k)(2) of the Act require that prior to issuing any guarantee under AFDP, the Secretary shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate and substantial terms and conditions of such guarantee. This is necessary to ensure that the issuance of the guarantee will have the minimum possible impact on the capital markets of the United States.

Subsection 19(k) of the Act provides the Secretary with authority to provide community impact assistance for the purpose of financing essential community development and planning which directly result from, or are necessitated by, the demonstration facility assisted under Subsection 19(b) of the Act. The Secretary may provide the following forms of community impact assistance to eligible states, political subdivisions or Indian tribes: Planning assessment grants, management grants, loan guarantees, internalization of socioeconomic costs into the demonstration project by the applicant of a demonstration facility and direct loans. The Secretary, if appropriate, may provide assistance in the financing of up to 100 percent of the cost of the required planning and essential community development. Where multijurisdictions suffer adverse impacts resulting from a demonstration facility assisted under Subsection 19(b), the Secretary is authorized to promote, to the greatest extent possible, arrangements for the equitable sharing of Federal assistance among impacted communities.

Subsection 19(b)(4) pledges the full faith and credit of the United States to the payment of the guarantee (both principal and interest).

Subsection 19(l) makes any guarantee incontestable except as to the holder's fraud or material misrepresentation.

Subsection 19(g)(2) subrogates the Secretary to the rights of the holder of the obligation involved when any default payment is made under Subsection 19(g)(1), including the right to complete, maintain, operate, lease, or otherwise dispose of any property acquired and the right to permit the borrower (under an agreement with the Secretary) to continue to pursue the facility when this would be in the public interest. Subsection 19(g)(3) requires the Secretary to notify the Attorney General in order that the Attorney General may take appropriate action to recover amounts of any payment made from the assets of the defaulting borrower.

Subsection 19(g)(4) provides that patents and technology resulting from the demonstration facility shall be

treated as project assets of such facility. The guarantee agreement must contain provisions to protect the interests of the United States in case of default and to have available all the patents and technology necessary for any persons (including the Secretary) to complete and operate the defaulting project, and a provision specifying that such patents and technology will be available to the Government and its designees on equitable terms. Inventions made or conceived in the course of the assisted projects (when title thereto is vested in the United States) shall not be treated as project assets, however, unless the Administrator determines that it is in the best interests of the United States to do so. Subsection 19(r) provides that "inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of Section 9 of this Act."

Subsection 19(j) of the Act requires the Secretary to charge and collect fees for loan guarantees in amounts sufficient to cover applicable administrative costs and reflect the percentage of project costs guaranteed. In no event shall the fee be less than 1 percent per annum of the outstanding loan covered by the guarantee.

Subsection 19(v) prohibits discrimination in any program of activity assisted under the Section 19 on grounds of race, color, religion, national origin, or sex. Indian tribes would be exempt from this provision with respect to planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

Subsection 19(x)(2) makes the prevailing wage requirements of the Davis-Bacon Act applicable with respect to contractors in the performance of construction work financed with assistance under the AFDP.

II. Proposed Regulation

The proposed regulation provides interested sponsors of alternative fuel demonstration facilities with general guidelines, requirements and procedures for obtaining loan guarantees and cooperative agreements for these facilities. In addition, the proposed regulation provides general guidelines for community impact assistance to states, political subdivisions or Indian tribes, as appropriate, adversely impacted by the siting, construction and operation of such demonstration facilities within their jurisdiction or adjacent thereto.

Before DOE may award a guarantee, commitment to guarantee or enter into a cooperative agreement for financing the construction, startup and related costs for an AFDP demonstration facility, DOE must obtain appropriation authority for AFDP from Congress. At the present time, DOE has no such appropriation authority.

Upon obtaining appropriation authority, DOE intends to issue an appendix(ces) to this proposed regulation which will set forth the priorities, preferences, competitive bidding techniques, selection and evaluation criteria to be considered by it in implementing a particular energy technology demonstration program under the AFDP.

This regulation implements the Act's requirement to obtain competitive bidding in awarding loan guarantees under AFDP. The regulation proposes that DOE will use two basic procedures to accomplish competitive awards. These are as follows:

(1) Solicitation for loan guarantee applications. (§ 796.7 "Award procedural guidelines for loan guarantees" of this regulation;

(2) Other competitive procedures which will be implemented by appendices to this regulation (§ 796.7 of this regulation).

Under the first procedure, DOE will publish an announcement soliciting applications for loan guarantees. In addition, copies of the announcement will be mailed to any person known to DOE to be interested in responding to such an announcement. DOE will process applications received in response to an announcement in accordance with the provisions of § 796.40, "Application processing for a loan guarantee for a demonstration facility," of this regulation. When the anticipated total cost of individual projects of the type specified in the announcement is estimated by DOE to exceed \$50 million, application evaluations will be conducted by a specially constituted board which will follow the appropriate procedures specified in the Source Evaluation Board (SEB) Handbook (Procurement Regulation Handbook No. 1, 44 F.R. 6038, January 30, 1979) appropriately modified to reflect the solicitation procedure and other requirements of this regulation. When the anticipated total cost of projects is less than \$50 million, applications will be evaluated by a panel appointed by the appropriate Assistant Secretary. The panel will utilize procedures similar to those specified in DOE's Procurement Regulation Handbook No. 1 for source

evaluation panels. The specially constituted board or panel will, after evaluating the applications, rank them in the order of preference and forward these applications to the selection official. If the total cost of the individual projects from which the selection is to be made is \$50 million or less, then the selection official shall be the appropriate Assistant Secretary or his/her designated representative. If the total cost exceeds \$50 million, then the selecting official shall be the Secretary or his designated representative.

Whenever the solicitation procedures described do not fully meet the requirements of a particular technology to be demonstrated under AFDP, then DOE will specify alternative competitive solicitation procedures designed for such purpose. These procedures will be implemented by appendix(ces) to this regulation and will be specific with regard to both the technology to be employed and the method of solicitation, evaluation and award of loan guarantees to be used.

In accordance with § 796.14 "Cooperative agreement requirements and conditions for a modular-size oil shale facility," a cooperative agreement shall be awarded only for a demonstration facility that is determined by the Secretary to be constructed at a modular size for the conversion of oil shale into alternative fuel. Modular shale oil facilities supported by cooperative agreements shall meet the requirements of Section 8 and other provisions of the Act and also applicable DOE regulations pertaining to cooperative agreements (see proposed DOE assistance regulation for Cooperative Agreements, 44 FR 20594, April 5, 1979). The Secretary may not, however, provide loan guarantee assistance to a full-size oil shale facility prior to the construction and successful demonstration of a modular-size facility producing between 6,000 and 10,000 barrels of oil per day.

Section § 796.17 of this regulation provides that cooperative agreements and loan guarantees or commitments to guarantee entered into under this regulation shall incorporate, to the extent appropriate, the patent and waiver provisions contained in DOE's regulations on "Patents, Data and Copyrights" (41 CFR Part 9-9) and appropriate data and copyright provisions. Since these requirements are unique to Federal Loan Guarantee programs, public comments are specifically requested on this provision.

Section 796.10(a), (b) & (c) "Demonstration facility requirements and conditions" of this regulation,

provides that a demonstration project under AFDP will be in conformance with established environmental regulations. Applicants are required to provide DOE with an environmental report that will analyze the environmental impacts associated with the commercial operation of the project throughout its useful life and any essential community development to be assisted pursuant to Subpart F, "Community Impact Assistance," of this regulation. Any specific actions under a guarantee, such as approval of a disbursement, shall not be made unless the applicable requirements of NEPA and the DOE implementing NEPA requirements have been met. In addition Executive Order 11988—Floodplain Management, and Executive Order 11990—Protection of Wetlands, require the review of proposed projects to determine the impact on floodplains and wetlands. Policies and procedures regarding floodplain/wetland review are contained in 10 CFR Part 1022, 44 FR 12594, March 7, 1979 (see § 796.10 of this regulation). DOE will review the environmental information submitted by applicants for guarantee under AFDP to determine if such applicant's project conforms to these Executive Orders and DOE regulations implementing such Orders.

Loans guaranteed under this regulation may be funded through private lenders or the Federal Financing Bank (FFB) in accordance with § 796.18, "Loan funding." Funding through private lenders will have preference (under AFDP) except whenever the Secretary determines, after consultation with the Secretary of Treasury and negotiation(s) with the private lender, if any, that the interest rate, maturity, lending fees, or other terms and conditions applicable to the borrower do not reflect the value of a guarantee backed by the full faith and credit of the United States. Whenever a loan is funded through the FFB, the loan will be serviced in accordance with the loan servicing requirements as described in § 796.50, "Loan servicing," of Subpart D of this regulation by parties acceptable to the Secretary. The cost of servicing will be paid by the borrower. In addition, the borrower shall pay the guarantee fee directly to the Secretary. Such fee may be included as a project cost.

Guarantee agreements approved in accordance with this regulation will provide that the loan be serviced with the care and diligence in the disbursement, servicing and collection of the loan that would be exercised by any prudent servicer dealing with a similar loan without a guarantee.

Section 796.51, "Loan disbursement," provides the conditions that must be met prior to funds being disbursed to borrowers. First, the lender or other party servicing the loan must (i) comply with the notification requirements set forth in § 796.50(b)(1) and (2) of "Loan servicing" and (ii) the lender or other party servicing the loan must have received notice from the Secretary that the disbursement for the applicable milestone is approved. Secondly, the lender or other party servicing the loan must receive from the borrower satisfactory documentary evidence that loan drawdowns requested will be used to pay allowable project costs incurred or to provide documentation setting forth the purposes for which the drawdown is requested and an attestation that the disbursements will be used only for such purposes. Signature on the requesting document will be made by a person authorized to order the expenditure of the borrower's funds. Specific public comment is desired on this section of the regulation.

The regulation provides in § 796.54, "Assignment," that, except as may be required by law, a holder may, with the Secretary's approval, assign to another party certain rights and obligations under the loan or guarantee agreement. Such assignment will be in accordance with the provisions of the guarantee agreement. The lender, except to the extent that specific limitations provided by law or in the guarantees do not permit, may provide other lenders with participating shares in the loan without the prior consent of the Secretary. The guarantee agreement will specify to what extent and in what manner the loan may be divided into shares. The lender will give advance written notice to the Secretary when participating shares are so provided. The notice shall provide the participant's business, name, address, telephone number, and name of official to contact. However, the original lender will continue to be responsible for and perform the servicing provisions of the loan guarantee agreement unless the Secretary approves a substitute party to service the loan. Public comment on the assignment procedures is particularly desired since this procedure may affect the marketability of guaranteed loans.

At the discretion of the Secretary, a guarantee agreement may be amended to increase the amount of the loan guaranteed in the event that the actual project cost incurred during the construction and/or startup phase of the project exceeds the original estimated project cost. In no event may the guarantee be increased to cover

overruns that amount to more than 60 percent of the actual overrun costs. Certain conditions as set forth § 796.16 "Cost overruns," must be met before the Secretary may determine whether to increase the guarantee amount to cover cost overruns. First, the Secretary must be notified as soon as an overrun is anticipated along with the reasons for such cost overrun. Second, the borrower must provide a revised expected completion date, and the estimated total construction and startup costs for the project. Third, the borrower, must submit an acceptable plan indicating how the borrower's share of the cost overruns will be funded. Fourth, the borrower must provide a list of the additional collateral, if any, to be pledged for the increased guarantee(s) to cover the expected cost overruns. Finally, the borrower must provide updated information on the project economics to indicate that a reasonable assurance of repayment of the guaranteed loan (including the cost overruns) still exists. Based on the information submitted by the borrower and other information known to the Secretary, the Secretary then must determine whether: (1) The continuation of the project is worthwhile to meet AFDP objectives and is in the public interest; or (2) the probable net costs to the Government in increasing the guarantee amounts to reflect the increase in the loan guaranteed, in the event of cost overruns, will be less than that which would result in the event of default.

Section 796.60, "Default demand, payment and collateral liquidation," of this regulation provides that if a partial guarantee exists, funds received by the lender as a result of a liquidation action will be applied as follows:

(1) First, to the payment of reasonable and customary fees and expenses incurred in the liquidation process, and as set forth in the liquidation plan; and

(2) Second, distributed among the legal owners of interests in the loan prorated in accordance with their relative percentage ownership of the loan.

Section 19 of the Act does not include a provision regarding taxable or nontaxable instruments backed by Federal guarantees. In subparagraph (a)(19) of § 796.84, "Guarantee requirements and conditions for the purpose of financing essential community development," of Subpart F of this regulation, DOE proposes to adopt the policy that it will not guarantee an instrument issued by a state or political subdivision for financing essential community

development which results in nontaxable income to the holder. Public comments are particularly desired with respect to § 796.84(a)(19) as to the effect this provision will have on the AFDP.

The term "biomass" is defined in Subsection 19(o) of the Act as including, but not limited to, animal and timber waste, municipal and industrial waste, sewage, sludge, and oceanic and terrestrial crops. Section 19 of the Act also provides loan guarantee authority in Subsection 19(y) of the Act for financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewage, sludge, or other municipal organic wastes into alternate fuels. Separate regulations are now being prepared by the Office of Conservation and Solar Applications for the Urban and Industrial waste programs as set forth in Subsection 19(y) of the Act. Therefore, the definition of "biomass" in the AFDP regulation is directed to animal and timber waste, and oceanic and terrestrial crops.

III. Program Information

In accordance with the DOE Order 2030.1 dated December 18, 1978 implementing Executive Order 12044, "Improving Government Regulations," DOE has determined that the proposed regulation is significant, since it is related to the President's goal of encouraging production and use of alternative fuels. This DOE order also requires the preparation of an economic regulatory analysis if the regulation is likely to have a major economic impact.

The proposed regulation provides general guidelines for AFDP and for community impact assistance, but does not specify or authorize the award of guarantees for any demonstration project under AFDP. DOE intends to issue an appendix(ces) to this proposed regulation which will set forth the priorities, preferences, competition techniques, selection, and evaluation criteria to be considered by it in implementing a particular energy technology demonstration project, when Congressional authority to issue such guarantees is provided by law (see Subsection 19(u) of the Act).

The economic impacts of the proposed regulation are not presently quantifiable because the number of guarantees and the types of alternative fuel demonstration facilities receiving such guarantees have not yet been authorized by Congress. DOE has determined that the proposed regulation will not have major economic impacts which would require the preparation of an economic regulatory analysis, as specified by DOE

Order 2030.1. However, as appendices to this regulation are published hereafter, such appendices may require the preparation of an economic regulatory analysis (as required in DOE Order 2030.1) if the program authorized by the appendix is determined to be significant and is likely to have a major economic impact.

On January 11, 1978, DOE published a notice in the Federal Register (43 FR 1637) to the effect that final programmatic environmental impact statement, ERDA 1547 (available from the National Technical Information Service, U.S. Department of Commerce, 5825 Port Royal Road, Springfield, Virginia 22161, or for public view at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.), Alternative Fuel Demonstration Program, was filed with the Council on Environmental Quality. The statement was prepared (pursuant to the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. 4321 et seq., Pub. L. 91-190) to identify potential environmental and socioeconomic impacts which may be expected from the commercial demonstration program of alternative fuels that would be assisted through the award of financial assistance (in the form of loan guarantees and/or cooperative agreements) and to estimate those generic environmental impacts associated with an entire alternative fuels industry at production levels ranging from 350,000 to 1.7 million barrels per day.

This Environmental Impact Statement will provide the environmental input for future decisions on the program. It will also serve as a reference for site-specific environmental reviews that will be prepared in accordance with DOE's NEPA regulations and in connection with the issuance of individual Federal loan guarantees under this regulation.

IV. Comment Procedures

A. Written Comments. Interested parties are encouraged to submit written comments with respect to the regulations to: Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation, "Loan Guarantees for AFDP." Ten copies should be submitted. All information or data which you consider to be confidential must be clearly marked, "Confidential Treatment Requested." In this case, only

one copy need be submitted. Material so marked must be accompanied by a statement in support of the request for confidentiality, or it will be returned, and will not be considered in connection with this proposed regulation. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Comments received with respect to provisions in the proposed Urban Waste Demonstration Facilities Guarantee Program and the Industrial Waste Demonstration Facilities Guarantee Program regulation (Urban and Industrial Waste Programs) which are identical or similar to provisions in the AFDP regulation will be considered in the proposed rulemaking process of the AFDP, because the Urban and Industrial Waste Programs and the AFDP are authorized under the same statute (Section 207 of Title II of the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238)).

DOE has decided not to require a closing date for submission of such comments in light of the draft legislation (to streamline the loan guarantee procedures) being submitted to Congress for its consideration. Nevertheless, DOE still encourages comments on this regulation since many of its provisions would be included in the regulations which would implement the loan guarantee authority specified in the draft legislation.

In the event Congress does not enact the draft legislation into law, DOE will publish a notice in the Federal Register establishing public hearing on the proposed regulation. On the other hand, if Congress enacts the draft legislation into law, DOE will publish a notice in the Federal Register withdrawing this proposed regulation.

This regulation is divided into six subparts:

- Subpart A—General Provisions.
- Subpart B—Applications and General Filing Instructions.
- Subpart C—Application Processing.
- Subpart D—Guarantee and Project Administration.
- Subpart E—Default.
- Subpart F—Impact Assistance.

The proposed regulation is as follows:

Issued in Washington, D.C., June 21, 1979

Stanley I. Weiss,

Acting Assistant Secretary for Resource Applications.

It is proposed to add a New Part 796 to Title 10 of the Code of Federal Regulations to read as follows:

PART 796—FEDERAL LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

Subpart A—General Provisions

- | Sec. | |
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| 796.1 | Purpose. |
| 796.2 | Objectives. |
| 796.3 | Definitions. |
| 796.4 | Program management. |
| 796.5 | Financial assistance—general. |
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| 796.8 | Projects utilizing Federal leases. |
| 796.9 | Project costs. |
| 796.10 | Demonstration facility requirements and conditions. |
| 796.11 | Guarantee requirements and conditions. |
| 796.12 | Loan agreement requirements and conditions. |
| 796.13 | Guarantee fees. |
| 796.14 | Cooperative agreement requirements and conditions for a modular size oil shale facility. |
| 796.15 | Principal and interest assistance contract. |
| 796.16 | Cost overruns. |
| 796.17 | Patent and technical data. |
| 796.18 | Loan funding. |
| 796.19 | Applicability of other laws. |
| 796.20 | Full faith and credit and incontestability. |
| 796.21 | Deviations. |

Subpart B—Applications and General Filing Instructions

- | | |
|--------|---|
| 796.30 | Applications. |
| 796.31 | General filing instructions for a demonstration facility. |
| 796.32 | Supporting information for a demonstration facility. |

Subpart C—Application Processing

- | | |
|--------|---|
| 796.40 | Application processing for a loan guarantee for a demonstration facility. |
| 796.41 | Application processing for a cooperative agreement for a modular size oil shale facility. |
| 796.42 | Closing requirements for a loan guarantee. |

Subpart D—Guarantee and Project Administration

- | | |
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| 796.50 | Loan servicing. |
| 796.51 | Loan disbursements. |
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Subpart E—Default

- | | |
|--------|--|
| 796.60 | Default, demand, payment and collateral liquidation. |
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Subpart F—Community Impact Assistance

- 796.70 Purpose of community impact assistance.
- 796.71 Community impact assistance.
- 796.72 DOE technical assistance.
- 796.73 Coordination with other Federal agencies.
- 796.74 Eligibility for a planning assessment grant.
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- 796.76 Applications for a planning assessment grant or a management grant.
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- 796.78 Planning assessment grant and management grant conditions and requirements—general.
- 796.79 Grant application processing.
- 796.80 Eligibility for a loan guarantee for the purpose of financing essential community development.
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- 796.85 Loan agreement requirements and conditions for a loan guarantee.
- 796.86 Loan guarantee application processing.
- 796.87 Eligibility for a direct loan.
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- 796.90 Direct loan requirements and conditions.
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- 796.92 Assignment or transfer of a direct loan.
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- 796.94 Default on a direct loan.
- 796.95 Cost internalization for essential community development.
- 796.96 Principal and interest assistance for community impact assistance loan guarantee and direct loan.
- 796.97 Environmental evaluation of essential community development.
- 796.98 Essential community development monitoring and audit.
- 796.99 Examination of essential community development records.

Authority: Subsection 19(i) of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577) and the Department of Energy Organization Act Pub. L. 95-91, Section 644, et seq.

Subpart A—General Provisions**§ 796.1 Purpose.**

The purpose of this regulation is to set forth policies and procedures under which qualified applicants may obtain financial assistance, backed by the full faith and credit of the United States for financing the construction, startup, and related costs for demonstration facilities

for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels. It is also the purpose of this regulation to set forth policies and procedures for providing community impact assistance for planning and essential community development to eligible states, political subdivisions, and Indian tribes, appropriately, which would be adversely impacted by the siting, construction and operation of such demonstration facility(ies) within their jurisdiction or adjacent thereto.

§ 796.2 Objectives.

(a) The objectives of the Loan Guarantees for Alternative Fuel Demonstration Facilities Program (AFDP) are:

(1) To assure Federal support to foster a demonstration program to produce alternative fuels from domestic coal, oil shale, biomass, and other domestic resources;

(2) To authorize assistance, through loan guarantees, for the construction, startup, and related costs for commercial or modular size facilities for the demonstration of the conversion of domestic coal, oil shale, biomass and other domestic resources into alternative fuels in an environmentally acceptable manner;

(3) To authorize assistance, through cooperative agreements, for construction, startup, and related costs for modular size facilities for the conversion of domestic oil shale into alternative fuels in an environmentally acceptable manner;

(4) To gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities;

(5) To assure that adequate planning and financing of essential community development is available to eligible states, political subdivisions and Indian tribes, as appropriate, for adverse community impacts resulting from the siting, construction and operation of a demonstration facility. Grants, loans guarantees, direct loans, or the requirement that the applicant obtaining financial assistance for its demonstration facility to internalize the socioeconomic costs into the demonstration project, may be provided to such states, political subdivisions, and Indian tribes for such planning and essential community development.

§ 796.3 Definitions.

For the purposes of this regulation:

(a) "Act" means the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93-577,

as amended by Section 207 of Title II of Pub. L. 95-238.

(b) "Alternative fuel" means those oils, gases, and other energy forms produced or synthesized from shale, coal, and biomass and other domestic resources.

(c) "Biomass" shall include animal and timber waste, and oceanic and terrestrial crops.

(d) "Demonstration" means the establishment of a facility to exhibit the technical, economic, and environmental feasibility, normally under commercial conditions, of a device, technique, or process which converts domestic coal, oil shale, biomass, and other domestic resources into alternative fuel.

(e) "Modular size" means a facility integrating a modular unit using commercial sized components; in the case of the conversion of oil shale into alternative fuel, such modular size facilities are those that can produce between 6,000 and 10,000 barrels of oil equivalent per day.

(f) "Project" means a group of interrelated tasks undertaken, or intended, by the prospective applicant for a demonstration facility which, when completed, will result in the production of alternative fuels.

(g) "Applicant" means:

(1) For the purpose of demonstration facilities, any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other governmental non-Federal entity that has the authority to enter into the financial assistance agreement being sought and is requesting assistance under this regulation.

(2) For the purpose of community impact assistance, any eligible state, political subdivision, or Indian tribe, as defined below, which has the authority to enter into financial assistance agreements being sought and which is requesting assistance under this regulation.

(h) "Borrower" means:

(1) For the purpose of assistance for a demonstration facility, any applicant (as defined in § 796.3(g)(1)) who has an application approved by the Secretary and who enters into a loan which is guaranteed under this regulation.

(2) For the purpose of community impact assistance, any applicant (as defined in § 796.3(g)(2)), who has had an application approved by the Secretary and who enters into a loan which is guaranteed under this regulation or who receives a direct loan.

(i) "Assistance recipient" means any borrower, grantee or participant to a cooperative agreement receiving Federal

funds for any program authorized by this regulation.

(j) "Holder" means an individual or any legal entity such as a partnership or corporation, who has lawfully succeeded in due course to all or part of the rights, title, and interest in the guaranteed portion of the loan.

(k) "Indian tribe" means any tribe, band, or community having a governing body recognized by the Secretary of Interior.

(l) "Indian lands" means all lands, including mineral interests within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent and including rights-of-way to all lands including mineral interests held in trust for or supervised by an Indian tribe.

(m) "Lender" means any individual, partnership, corporation, Federal entity or other legal entity formed for the purpose of, or engaged in the business of lending money. Examples of lenders may include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, institutional investors, venture capital investment companies, trusts, Federal entity or other entities designated as trustees or agents acting on behalf of bondholders or other lenders.

(n) "Guarantee agreement" means a written agreement by which DOE guarantees payment of principal and accrued interest on specific financial obligations of a borrower.

(o) "Loan" means any financial obligation, including, but not limited to, bonds, debentures, notes, or other financial debt instruments.

(p) "Commitment to guarantee" means a document executed by the Secretary, that sets forth, specifically, or by reference to the terms and conditions under which the Secretary will subsequently issue a loan guarantee.

(q) "Cooperative agreement" means an executed written agreement reflecting an assistance relationship between DOE and an assistance recipient in which substantial involvement is anticipated between DOE and the assistance recipient during the performance of the activity described in the cooperative agreement.

(r) "Direct loan" means a loan of funds by the Secretary to an adversely impacted political subdivision, or Indian tribe for financing essential community development as defined in paragraph (w) of this section.

(s) "Management grant" means a grant of Federal funds to a political subdivision, or Indian tribe, as

appropriate; for the purpose of supporting the implementation of a detailed program of action to prevent or mitigate the adverse impacts of an approved demonstration facility and for establishing related management expertise.

(t) "Planning assessment grant" means a grant of Federal funds to a Governor of a state, or Indian tribe, as appropriate, for assessing social and economic impacts of a proposed demonstration facility and identifying any essential mitigating measures.

(u) "Adverse impact" means the actual or anticipated requirement for essential community development necessitated by the siting, construction and operation of the alternative fuel demonstration facility within the jurisdiction of a state, political subdivision or Indian tribe or adjacent thereto; and the lack of capability by such affected state, political subdivision or Indian tribe, as appropriate, to finance such essential community development from tax-revenues, Federal or state financial assistance or other sources.

(v) "Equitable assistance sharing" means the sharing of community impact assistance, which may be provided under this regulation, by more than one state, political subdivision, or Indian tribe adversely impacted by the siting, construction and operation of a demonstration facility.

(w) "Essential community development" means additional community development, including public facilities, housing, and transportation, required from rapid energy-related population growth resulting from the construction and operation of demonstration facility in the affected communities.

(x) "Public facility" means a facility constructed, renovated or expanded with public funds provided by a state, political subdivision, or Indian tribes. For the purpose of this regulation, the term public facility includes, but is not limited to, the following facilities which will not serve as industrial facilities:

- (1) Education
- (2) Environmental protection
- (3) Health care
- (4) Public safety and law enforcement
- (5) Recreation
- (6) Transportation
- (7) Public utilities.

(y) "Default" means the failure of a borrower to make payments of principal and interest on a loan guaranteed by the Federal Government or on a direct loan by the Federal Government for financing essential community development within the time period specified in the

loan agreement, or the failure of the borrower to comply with material terms or conditions as specified in the loan guarantee agreement or in the direct loan agreement.

(z) "Overrun costs" means any cost that exceeds the total estimated costs of the demonstration facility as specified in the initial guarantee agreement.

(aa) "Secretary" means the Secretary of Energy or designee.

(bb) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

(cc) "United States" means the several states, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 796.4 Program management.

Program management responsibility for financial assistance awarded under this regulation and under the applicable appendix(ces) to this regulation will be vested within the Office of Resource Applications.

§ 796.5 Financial assistance—general.

The Secretary, with due regard for the need for competition, may enter into financial assistance agreements for demonstration facilities to promote the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels. Such assistance may be in the form of loan guarantees or cooperative agreements in the case of a modular size oil shale facility(ies).

§ 796.6 Citizenship requirements.

An applicant for financial assistance under this regulation must be a citizen or a national of the United States. An individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity shall not be deemed to a citizen or national of the United States unless the Secretary determines that such applicant satisfactorily meets all the requirements of Section 2 of the Shipping Act of 1910 (46 U.S.C. 802) for determining such citizenship, except that the provisions in such Section 2(a) concerning (a) the citizenship of officers or directors of a corporation, and (b) the equity required to be owned in the case of a corporation, association, partnership, or firm operating a vessel in the coastwise trade shall not be applicable. The Secretary, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, association, partnership, or firm in which controlling

interest is owned by citizens of countries that are participants in the International Energy Agreement.

§ 796.7 Award procedural guidelines for loan guarantees.

(a) A loan guarantee shall be awarded on the basis of competition among all applicants proposing similar demonstrations to the extent feasible. It is the intention of the DOE to consider all aspects of the application, including the impact of a specific guarantee on competition and concentration in the production of energy; the resources available; status of regulatory proceeding, if applicable; labor availability; technology application; financial structure; project economics; borrower's equity; repayment assurance; collateral pledged; environmental and socioeconomic factors; the application's achievement of the goals and objectives of the demonstration program; and other competitive evaluation and selection criteria set forth in subsequent appendices to this regulation.

(b) It is DOE policy to encourage and maximize open and fair competition in the awarding of loan guarantees under AFDP. DOE will use two basic procedures to accomplish competitive awards:

(1) Solicitation for loan guarantee applications as described in paragraph (c) of this section;

(2) Other competitive procedures as specified in paragraph (d) of this section.

(c) DOE will follow the basic steps described in this paragraph to receive, evaluate, and award loan guarantees under a solicitation procedure.

(1) *Solicitation Announcement.* DOE will publish an Announcement in the Federal Register soliciting applications for loan guarantees. A synopsis of the Announcement will also be published simultaneously in the Commerce Business Daily. In addition, copies of the Announcement will be mailed to any person known to DOE to be interested in responding to such a Solicitation Announcement. The Solicitation Announcement will contain the following information:

(i) A brief description of the type of projects for which loan guarantee applications are solicited;

(ii) The time period during which responses to the solicitation may be filed;

(iii) The name and address of the DOE representative who may be contacted to receive further information;

(iv) Such other information as determined by DOE to be relevant to the Solicitation Announcement.

(2) *Application processing.* DOE will process applications received in response to a Solicitation Announcement in accordance with the provisions of § 796.40 "Application processing for a loan guarantee for a demonstration facility," of this regulation.

(3) *Evaluation of applications.* When the anticipated total cost of individual projects of the type specified in the Solicitation Announcement are estimated by DOE to exceed \$50 million, application evaluation will be conducted by a specially constituted board which will follow the appropriate procedures specified in the Source Evaluation Board Handbook (Procurement Regulation Handbook No. 1, 44 FR 6038, January 30, 1979). When the anticipated total cost of projects is less than \$50 million, applications will be evaluated by a panel appointed by the appropriate Assistant Secretary. The panel will utilize procedures similar to those specified in DOE procurement regulations for source evaluation panels. Regardless of whether a board or panel is used, each application shall receive an impartial, equitable, and thorough evaluation.

(4) *Award of loan guarantees.* The formal body specified in the preceding paragraph (c)(3) will rank the applications in order of preference for award of a loan guarantee and forward the ranking to the selecting official, who shall then make the appropriate selection. If the total cost of the individual projects from which the selection is to be made is \$50 million or less, then the selection official shall be the appropriate Assistant Secretary or his/her designated representative. If the total cost exceeds \$50 million, then the selecting official shall be the Secretary or his designated representative. No application selection shall be final until the procedures specified in § 796.40 of this regulation have been fully met.

(d) Whenever the solicitation procedures described in paragraph (c) of this section do not fully meet the requirements of a particular technology to be demonstrated under AFDP, then DOE will specify alternative competitive procedures designed for such purpose. These procedures will be implemented by appendix(ces) to this regulation and will be specific with regard to both the technology to be employed and the method of solicitation, evaluation, and award of loan guarantees to be used.

(e) *Unsolicited applications.* Although it is DOE policy to solicit applications (as specified in paragraph (c) of this section, or use other competitive procedures (as specified in paragraph

(d) of this section), DOE also allows innovative unsolicited applications to be presented to DOE for consideration. An unsolicited application should fall within the technologies to be demonstrated under AFDP and meet the objectives and requirements set forth in this regulation and applicable appendix(ces) to this regulation. Unsolicited applications shall be awarded in accordance with the provisions of paragraph (c)(4) of this section. The following guidelines for unsolicited applications should be considered by any potential applicant:

(1) *Advance consultation.* Organizations or individuals who are interested in submitting an unsolicited application are encouraged, before expending extensive efforts in preparing a detailed unsolicited application or submitting any proprietary information to the Government, to make preliminary inquiries of DOE program staff as to the general interest in the type of demonstration project contemplated.

(2) *An Unsolicited Application received when a DOE solicitation is anticipated.* If DOE has planned the solicitation of applications for the demonstration of a particular energy technology under AFDP and an unsolicited application is received on that particular energy technology, the Secretary will reject such unsolicited application and advise the applicant to file the application in response to the Solicitation Announcement.

(3) *Submission point.* All unsolicited proposals for new or renewals of financial assistance awards will be submitted to DOE, Office of Resource Applications, 12th and Pennsylvania Avenue, NW., Room 3400, Washington, D.C. 20461.

(4) *Proprietary data.* Unsolicited applications may include data which the applicant does not want disclosed for purposes other than the evaluation of the application. (See § 796.31(c), (d), (e) and (f) of this regulation.)

§ 796.8 Projects utilizing Federal leases.

(a) The Secretary shall inform the appropriate supervisor of the Department of Interior (DOI) (as defined in 30 CFR 211.2(x), 221.2(c) and 231.2(c)) or other appropriate DOI officer with supervisory authority over operations and production (as defined in Subchapters P and Q of 25 CFR) when a long guarantee is approved involving a Federal lease, in order to provide for future coordination of the loan guarantee program and DOI Federal lease administration.

(b) Under 43 CFR, Parts 3100 and 3500; 30 CFR, Parts 211, 221, and 231;

Subchapters P and Q of 25 CFR, and under existing oil shale leases issued by DOI, a lessee may apply for suspension of operations or production, or both (or for relief from any drilling or producing requirements) under a Federal lease. When a loan guarantee has been issued under this regulation for a project to be conducted by a borrower who is a lessee under the above cited regulations or under an oil shale lease, the borrower shall submit any such suspension application to the Secretary together with a statement setting forth complete information showing the effect of such suspension on the borrower's ability to comply with terms and conditions set forth in the loan agreement. The Secretary will notify the borrower in those situations when approval of the suspension application might cause default by the borrower. Except in cases where potential environmental safety or, if applicable, reservoir damage is imminent, the borrower shall obtain the Secretary's approval prior to submitting a suspension application to the DOI supervisor or other appropriate DOI office with supervisory authority over operations and production.

(c) Federal leases issued by DOI may provide for the readjustment of lease terms and conditions at stated intervals. When a guarantee under this regulation has been issued for a loan on a project to be conducted by a borrower who is a lessee, and the borrower files an objection to any proposed readjustment with a DOI authorized officer (as defined in 43 CFR 3000.0-5(f), or other appropriate DOI officer with jurisdiction over leased lands (as defined in Subchapters P and Q of 25 CFR), a copy of the objection shall be submitted concurrently by the borrower to the Secretary. The Secretary shall forward a copy of the objection to those lenders concerned, and shall consult with the authorized officer or appropriate office of DOI having jurisdiction over leased lands regarding any final action that might terminate the lease. The Secretary shall prepare an assessment on the effect of the proposed readjustment of lease terms and conditions that would substantially limit the borrower's ability to comply with the terms and conditions set forth in the loan agreement. The Secretary shall forward his assessment in writing to the authorized officer or other appropriate officer of DOI having jurisdiction over leased lands, and the supervisor or other appropriate officer of DOI with supervisory authority over operations and production.

(d) Upon receipt by the lessee (borrower) of notice of a proposed cancellation of a lease by the Secretary

of Interior, authorized officer, or other appropriate officer of DOI with jurisdiction over leased lands, the lessee will provide the Secretary and the lender with notice of such proposed action. Upon receipt of such notice the Secretary will consult with the authorized officer of DOI to determine whether the public interest can best be served by an acceptable alternative agreement.

§ 796.9 Project costs.

(a) The cost elements set forth in this section are for the purpose of illustrating the manner by which the construction, startup, and related costs of the project may be determined. It is expected that the costs will be accumulated in accordance with generally accepted accounting principles and practices that are consistently applied. Those reasonable and customary costs that are paid, expected to be paid, and which are directly related to the project shall be used to estimate the total estimated cost (i.e., construction, startup, and related costs) for a demonstration facility. These costs may include, but are not limited to:

(1) Financial and legal service costs, including professional services and fees necessary to obtain licenses, permits and to prepare environmental reports and data.

(2) Research, exploration or development costs, only to the extent necessary to complete the project.

(3) Interest costs and other normal charges affixed by lenders;

(4) Costs of acquisition or rental of real property, including engineering fees, surveys, title insurance, recording fees, and legal fees incurred in connection with land acquisition or rental, site improvements, site restoration, and abandonment costs, access roads and fencing;

(5) Necessary and appropriate insurance and bonds of all types;

(6) Engineering, architectural, legal and bond fees, and insurance paid in connection with construction of demonstration facility; and materials, labor, services, travel and transportation for facility construction, startup, and tests; and costs for the purchase of flood insurance when it is required;

(7) Equipment purchase and startup testing;

(8) A reasonable contingency reserve to cover the possibility of cost increases during the processing of the application and during construction;

(9) Costs to provide original safety and environmental protection equipment, facilities, and services;

(10) Employees' salaries, wages, consultant's fees, and other operating expenses associated with the demonstration plant startup;

(11) Where applicable, fees for royalties and licenses negotiated through "arms length" transactions that relate to the construction phase of the project;

(12) Cost of any current assets directly related to the project, including cash reserves, and other forms of working capital;

(13) Other operating expenses associated with the demonstration plant startup;

(14) Costs of data gathering (technical, environmental, economic and socioeconomic impacts) and preservation;

(15) Costs of community impact assistance (planning and essential community development costs directly resulting from the siting, construction, and operation of the proposed demonstration facility) to the extent that such community impact assistance is to be provided by the applicant obtaining Federal funds for its demonstration facility;

(16) Other necessary and reasonable costs;

(b) Costs that are not considered as allowable project costs include the following:

(1) Fees and commissions charged to the borrower, including finder fees, for obtaining Federal funds;

(2) Parent corporation's general and administrative expenses, and other parent corporation assessments, including company organizational expenses;

(3) Goodwill, franchises, trade, or brand name costs;

(4) Dividends and profit sharing to stockholders, employees, and officers;

(5) Amounts expended for facilities and equipment used in the extraction of minerals other than coal or shale. In the case of coal, inclusion of costs for material and equipment used in extraction may only be included to the extent that the Secretary determines that the coal is to be converted into alternative fuels by the demonstration facility;

(6) Costs that are excessive or are not directly required to carry out the project as determined by the Secretary;

(7) Operating expenses incurred after startup.

(c) The Secretary may audit any or all cost elements included by the applicant in the estimated project cost and reserves the right to exclude or reduce the amount of any allowable project cost which the Secretary determines to

be unnecessary or excessive. The applicant shall make available records and other data necessary to permit the Secretary to carry out such review. In carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

§ 796.10 Demonstration facility requirements and conditions.

(a) A guarantee or a commitment to guarantee a loan or cooperative agreement may be made only if the following demonstration facility requirements and conditions are met as determined by the Secretary:

(1) The project will be in conformance with established environmental regulations. The issuance of a guarantee under this regulation is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et. seq., Pub. L. 91-190) and applicable regulations, rules and guidelines implementing NEPA. NEPA requires the identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." The environmental review to be performed by an applicant will also include an analysis of the environmental impacts associated with any essential community development to be assisted pursuant to Subpart F, "Community Impact Assistance," of this regulation.

(2) In addition to generally applicable criteria used to determine the proper scope of environmental review to be accorded individual applications, DOE shall review and consider the environmental impacts associated with the commercial operation of the project throughout its useful life. Such considerations shall be carried out even where the proposed guarantee may be limited to only a small or preliminary segment of the entire commercial project. Any specific actions under a guarantee, such as approval of a disbursement, shall not be made unless the applicable requirements of the NEPA and the DOE regulations implementing NEPA have been met.

(3) The project will conform with the provisions of Executive Order 11988—Floodplain Management, and 11990—Protection of Wetlands, and with DOE regulations 10 CFR Part 1022, 44 FR 12594, March 7, 1979.

(4) The project is considered to be technically and economically feasible, and environmentally acceptable.

(5) Any affected Indian tribe(s) has been involved in the planning of the project to the extent that the demonstration facility would be located on Indian tribe(s) lands, or where a substantial portion of the feedstock for a facility is to be obtained pursuant to an agreement with an Indian tribe.

(6) There is sufficient evidence that the applicant will initiate and complete the project in a timely, efficient, and acceptable manner.

(7) The project will be built and operated in the United States.

(8) The project is not for the manufacture of component parts for demonstration facilities eligible for assistance under this regulation.

§ 796.11 Guarantee requirements and conditions.

(a) In addition to meeting the requirements set forth in § 796.5, "Financial assistance-general," a guarantee for a loan for a demonstration facility shall be made only if the following requirements and conditions are met as determined by the Secretary:

(1) The Secretary finds that other methods of financing the demonstration facility are not reasonably available to the applicant;

(2) The amount of a loan guarantee for any demonstration facility shall not exceed 75 percent of the estimated construction, startup, and related costs for such facility; where only a partial guarantee is made by the Secretary, the guarantee agreement and underlying loan agreement will include adequate provisions regarding the rights, interests, and responsibilities of the parties in the event of a default, and disposition of any receipts obtained after liquidation;

(3) Full repayment of the guaranteed loan is to be made over the lesser of 20 years, or a period equal to 90 percent of the expected average useful economic life of the project's major physical assets. In calculating such period the Secretary shall utilize generally accepted accounting principles and practices;

(4) The amount of the loan guaranteed, when combined with other funds available to the applicant, will be sufficient to carry out the project, including adequate contingency funds;

(5) There is a reasonable assurance of repayment of principal and interest of the loan by the borrower;

(6) The project assets and other collateral or surety as determined by the Secretary to be necessary are pledged by the borrower as security for the repayment of the loan;

(7) The guarantee agreement or related documents include the following

provisions with respect to patents, technology and other proprietary rights:

(i) Detailed terms and conditions as the Secretary deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected including, but not limited to the Secretary, to complete and operate the defaulting projects;

(ii) A requirement that patents, technology, and other proprietary rights which are necessary for the construction and operation of the demonstration facility are reasonably available for use by others (e.g., United States Government or other parties designated by the United States Government) on equitable terms;

(iii) A requirement that patents, including any inventions for which a waiver was made by the Secretary under Section 9 of the Act and technology resulting from the demonstration facility, shall be treated as project assets of such facility; and

(iv) A requirement that inventions conceived or first actually reduced to practice in the course of or under a guarantee, title to which is vested in the United States, shall not be treated as project assets for disposal purposes unless the Secretary determines in writing that it is in the best interests of the United States to treat them as project assets.

(8) The loan guaranteed bears an interest rate, determined by the Secretary in consultation with the Secretary of Treasury, to be reasonable taking into account the range of interest rates prevailing in the private sector for similar government guaranteed obligations of comparable risk.

(9) Any loan for the project which is not part of the guaranteed loan is subordinate to the guaranteed loan, and the guaranteed loan is in a first lien position regarding all assets of the project and all collateral security pledged. However, if any of the assets offered by the borrower as collateral security for the guarantee are subject to prior financing liens by other creditors, DOE will require that such prior lien creditors be removed or an acceptable legal arrangement be made with such prior lien creditors where DOE will be protected in the event of default. An arrangement of this nature must be in the form of written agreement between DOE and the prior lien creditors, and provide the following conditions:

(i) Ample notice of default and collateral security sale;

(ii) A plan of liquidation offering mutual protection to DOE and other creditors; and

(iii) An option on the part of DOE, which would be assignable to a third party, to have the first lien debt payable according to the original installment terms (even after default) if the project operation is undertaken by DOE or an acceptable third party, or on behalf of or through DOE.

(10) The loan guarantee agreement provides that the Secretary shall, after a period of not less than 10 years from the date of such agreement, determine the feasibility and advisability of terminating the Federal participation in the demonstration facility. In the event that a decision for termination is made, the borrower, upon notification by the Secretary, has not less than two not more than three years to arrange for alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Secretary may charge the borrower an additional fee of one percent per annum on the remaining principal to which the Federal guarantee applies.

(11) When a lender holds a guaranteed and a nonguaranteed portion of a loan, payments of principal or interest made by the borrower, shall be applied by the lender to reduce the guaranteed and nonguaranteed portions of the loan on a proportionate basis.

(12) The borrower agrees that no change of project ownership or financing arrangement will occur without prior written consent of the Secretary.

(13) There is satisfactory evidence that the applicant is willing, competent and capable of performing the terms and conditions of the loan.

(14) The lender agrees not to accelerate payment of the borrower's indebtedness, except as may be otherwise permitted in the guarantee agreement.

(15) The borrower and lender agree that provisions for servicing the loan and monitoring the project are to be provided for by the lender or other parties satisfactory to the Secretary.

(16) The guarantee agreement or related documents identify those items of information which the borrower will make available to the Secretary for public dissemination.

(17) The applicant (borrower) agrees to comply with the Flood Disaster Protection Act of 1973 (Pub. L. 92-234).

(18) Wages and rates to be paid to laborers and merchants employed by contractors or subcontractors in the performance of construction work are not less than those prevailing on similar

construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5).

(19) The borrower and lender agree that no person in the United States shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the proposed project on the ground of race, color, religion, national origin, sex, handicap, or age.

(20) The borrower agrees to carry out an acceptable plan for small business concerns to participate in the project to the optimum extent feasible, consistent with the size and nature of each project.

(21) The applicant (borrower) agrees to incorporate or cause to be incorporated into all construction contracts under the guaranteed loan, the provisions prescribed by 41 CFR Part 60 pursuant to Executive Order No. 11246, September 28, 1965, 30 FR 12319 regarding promotion and assurance of equal employment opportunity.

(22) The borrower agrees not to undertake any work in connection with the project for another Federal agency without the Secretary's written approval.

(23) Income from the loan to be guaranteed is not excluded from gross income for the purposes of Chapter I of the Internal Revenue Code of 1954.

(b) Where the cost of a demonstration facility to be assisted with a loan guarantee or commitment to guarantee exceeds \$50 million, the following procedures shall be complied with:

(1) The making of such guarantee is specifically authorized by Congress; or

(2) Both Houses of Congress pass a resolution stating in substance that they favor the making of such guarantee.

§ 796.12 Loan agreement requirements and conditions.

In addition to meeting the requirements set forth in § 796.11, "Loan guarantee requirements and conditions," a guarantee for a loan may be made only if the underlying loan agreement contains provisions satisfactory to the Secretary and which meet the following requirements:

(a) A minimum period of grace of sixty days from the date a principal or interest payment is due.

(b) Any extension of time over this grace period by the lender for the making of any payment in whole or in part must be agreed to by the parties and approved by the Secretary.

(c) The orderly and ratable retirement of the loan. This includes sinking fund provisions, installment payment provisions, or other methods of payment

and reserves. To the maximum extent possible, repayment or provision therefor shall be required to be made in equal payments payable at equal intervals.

(d) Acceptable prepayment and acceleration provisions, exercised at the option of the borrower without penalty, are included.

(e) An acceptable provision for deferring payments of principal until income from the project is sufficient to meet this obligation.

(f) Such other terms and conditions necessary for the protection of the interests of the United States.

§ 796.13 Guarantee fees.

Guarantee fees shall be imposed on the guaranteed portion of the loan and are computed at a rate of one percent per annum on the outstanding principal balance. Payments of the guarantee fee shall be made at the time of the closing of the guarantee and annually, thereafter, or at other intervals to be determined by the Secretary. The guarantee fee shall be collected from the lender and shall be used for the purposes of defraying the costs of administration of AFDP. This guarantee fee is paid by the borrower and may be included in the cost of the project. If principal and interest assistance is in effect, payments of this fee may be deferred by the Secretary for the term of the principal and interest assistance contract.

§ 796.14 Cooperative agreement requirements and conditions for a modular size oil shale facility.

(a) In addition to meeting the requirements set forth in § 796.5, "Financial assistance-general", a cooperative agreement under this regulation shall be awarded only for a demonstration facility that is determined by the Secretary to be constructed at a modular size for the conversion of oil shale into alternative fuel.

(b) Modular shale oil facilities supported by cooperative agreements shall meet the requirements of Section 8 and other provisions of the Act and also applicable DOE regulations pertaining to cooperative agreements (See proposed DOE assistance regulation for Cooperative Agreement, 44 FR 20594, April 5, 1979). The cooperative agreement shall provide for financial assistance for a portion of the construction, startup, and related costs as described in § 796.9, "Project costs", plus operation and maintenance costs, of such facility provided that:

(1) The maximum amount of such assistance does not exceed 75 percent of the estimated project costs, as well as the operation and maintenance costs of such facility;

(2) The receipts from the sale of any products produced during the operation of the demonstration facility are to be used to offset the costs incurred in the operation and maintenance of the facility and any surplus thereafter shall be shared on a pro rata basis by DOE and the parties to the cooperative agreement;

(c) The amount of the financial assistance provided for by the cooperative agreement, when combined with other funds available to the applicant from other sources, will be sufficient to carry out the project for which the cooperative agreement is made, including adequate contingency funds.

(d) Where the cost of the demonstration facility to be assisted with a cooperative agreement exceeds \$50 million the following procedures shall be complied with:

(1) The making of such cooperative agreement is specifically authorized by Congress; or

(2) Both Houses pass a resolution stating in substance that the Congress favors the making of such cooperative agreement;

(e) After successful demonstrative as determined by the Secretary, the assistance recipient of the modular size oil shale facility may be eligible for additional financial assistance in the form of a loan guarantee for the purposes of demonstrating a full-size oil shale facility. The assistance recipient may purchase the Federal interest in the modular size facility as represented by the Federal funds contributed under the cooperative agreement:

(1) By means of a cash payment to the United States, or;

(2) By an allocation of a share of the product or sales resulting from such expanded operation, as determined by the Secretary.

(f) If the Secretary determines that the expansion of such facility is not warranted, the Secretary may, at the option of the assistance recipient, dispose of the modular-size oil shale demonstration facility to the assistance recipient at not less than fair market value (as determined by the Secretary) as of the date of the disposal; or the Secretary may otherwise dispose of the modular-size facility in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the assistance recipient in proportion to

the assistance recipient's share of the costs in such facility.

(g) A cooperative agreement shall be entered into by the Secretary under this regulation only if the Secretary finds that other means of project cost funding is not reasonably available to the applicant.

(h) The cooperative agreement provides that the assistance recipient will not undertake any work in connection with the project for another Federal agency without the Secretary's written approval.

§ 796.15 Principal and interest assistance contract.

(a) With respect to any loan guaranteed pursuant to this regulation, the Secretary may enter into a principal and/or interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the principal and interest charges that become due and payable on the unpaid balance of such loan, if the Secretary finds that:

(1) The borrower is unable to meet principal or interest payments or both;

(2) It is in the public interest to permit the borrower to continue to pursue the purposes of the project;

(3) The probable net benefit to the Federal Government in paying such principal or interest will be less than that which would result in the event of a default for the nonpayment of principal or interest;

(4) The amount of principal or interest payment which may be made under this section will be no greater than the amount of principal or interest that the borrower is obligated to pay under the loan agreement; and

(5) The borrower agrees to reimburse the Secretary for such payment (including interest) on such terms and conditions which are satisfactory to the Secretary and executes all written contracts required by the Secretary for such purpose.

§ 796.16 Cost overruns.

(a) At the discretion of the Secretary, a guarantee agreement may be amended to increase the amount of the loan guaranteed in the event that the actual project cost incurred during the construction and/or startup phase of the project exceeds the original estimated project cost. In no event may the guarantee be increased to cover overruns that amount to more than 60 percent of the actual overrun costs. All the following conditions must be met by the borrower before the Secretary may determine whether to amend the guarantee agreement to cover such cost overruns:

(1) The Secretary must be notified as soon as an overrun is anticipated, along with the reasons for such cost overrun;

(2) The borrower, when requesting overrun assistance, provides a revised expected completion date, and the construction and startup costs for the project;

(3) The borrower submits an acceptable plan indicating how the borrower's share of the cost overruns will be funded;

(4) The borrower provides a list of the additional collateral, if any, to be pledged for the increased guarantee(s) to cover the expected cost overruns; and

(5) The borrower provides update information on the project economics to indicate that a reasonable assurance of repayment of the guaranteed loan (including the cost overruns) still exists;

(b) Based on the information submitted by the borrower and other information known to the Secretary, the Secretary may determine, at his/her discretion, to provide for the guarantee of additional loan funds for the expected cost overruns if the Secretary finds that:

(1) The continuation of the project is worthwhile to meet AFDP objectives and is in the public interest; or

(2) The probable net costs to the Government in increasing the guarantee agreement to reflect the increase in the loan guaranteed, in the event of cost overruns, will be less than that which would result in the event of default;

§ 796.17 Patent and technical data

Title to inventions conceived or first actually reduced to practice in the course of or under any loan guarantee or commitment to guarantee or cooperative agreement authorized by these regulations shall vest in the Government, except the Secretary may waive the rights of the Government in accordance with Section 9 of the Act. Cooperative agreements and loan guarantees or commitments to guarantee entered into under this regulation shall incorporate, to the extent appropriate, the patent provisions contained in DOE's regulations on "Patents, Data and Copyrights" (41 CFR Part 9-9) and appropriate data and copyright provisions.

§ 796.18 Loan funding.

(a) The Federal Financing Bank (FFB) is an agency operating under the United States Treasury Department which has authority to purchase federally guaranteed debt. Loans guaranteed under this regulation may be funded through private lenders or the FFB. Funding through private lenders will have preference, except in the following

case: Whenever the Secretary determines, after consultation with the Secretary of Treasury and negotiation with the private lender, if any, or another private lender that the interest rate, maturity, lending fees, or other terms and conditions applicable to the borrower do not reflect the value of a guarantee backed by the full faith and credit of the United States.

(b) Whenever a loan is funded through the FFB, the loan will be serviced in accordance with the loan servicing requirements as described in § 796.50, "Loan servicing" of Subpart D of this regulation by parties acceptable to the Secretary. The cost of servicing will be paid by the borrower. In addition, the borrower shall pay the guarantee fee directly to the Secretary. Such fee may be included as a project cost.

§ 796.19 Applicability of other laws.

Nothing in this regulation may be construed as affecting the obligations of any party to comply with Federal, state and local environmental, land use, water, health, safety, antitrust laws and regulations or to obtain applicable Federal, state, and local permits, licenses and certificates.

§ 796.20 Full faith and credit and incontestability.

The full faith and credit of the United States is pledged to the payment of all guarantees, issued in accordance with this regulation, with respect to principal and interest. The guarantee agreement shall be conclusive evidence that the guarantee and the underlying loan comply with the provisions of the Act, and this regulation. Such a guarantee shall be valid and incontestable by the Government, except for fraud or misrepresentation by the holder of the loan.

§ 796.21 Deviations.

To the extent that such requirements are not specified by the Act or other applicable statutes, DOE's Assistant Secretary for Resource Applications may authorize deviations on an individual application basis from the requirements of this regulation (except environmental considerations and requirements) upon a finding that such deviation is essential to program objectives and the special circumstances in the application make such deviation clearly in the best interest of the Government. Recommendation for any deviation shall be submitted in writing to the Assistant Secretary for Resource Applications. Such recommendations should include a supporting statement, which indicates briefly the nature of the

deviation requested and the reasons therefore. This deviation authority may not be redelegated.

Subpart B—Applications and General Filing Instructions

§ 796.30 Applications.

Applications for loan guarantees and requests for cooperative agreements for demonstration facilities shall comply with all requirements in this regulation and acceptable appendices to this regulation. DOE intends to issue an appendix(ces) to this proposed regulation which will set forth the priorities, preferences, competition techniques, selection and evaluation criteria to be considered by it in implementing particular energy technology demonstration project(s). The appendix(ces) will also provide the potential applicants with any further requirements for information (i.e., technical, financial, environmental, etc.) to be submitted with their application and the time period for submission of such application. Additional information may be requested through the use of a solicitation mechanism (see § 796.7 "Award procedural guidelines for loan guarantees" issued pursuant to an appendix.

§ 796.31 General filing instructions for a demonstration facility.

(a) A demonstration facility loan guarantee application and a request for a cooperative agreement shall be filed with the Secretary in accordance with the following general procedures:

(1) An application for a loan guarantee or a request for a cooperative agreement for a demonstration facility under this regulation must be signed by the applicant or authorized representative of the applicant and must be in such form and content as further required in an applicable appendix to this regulation; and

(2) A guarantee application or a request for a cooperative agreement shall describe the demonstration facility for which the guarantee is sought and shall include a schedule for the construction and operation of the demonstration facility on a milestone basis which shall be utilized in assessing disbursement requests.

(b) Prior to DOE requesting the submission of loan guarantee applications for a specific demonstration or requests for a cooperative agreements for a modular-size oil shale demonstration facility, preliminary discussions may be conducted by applicable DOE program personnel with appropriate parties who

wish to obtain information or advice regarding eligibility requirements for compliance with these regulations and the filing of required supporting information.

(c) Subject to the requirements of law, information such as trade secrets, commercial and financial information, and other information or data concerning the demonstration project which the applicant or lender submits to the Secretary in writing during the preliminary discussions or at other times throughout the duration of the project, on a privileged or confidential basis, will, in accordance with the DOE regulations concerning public disclosure of information not be disclosed by DOE without prior notification to the submitter. Any submitter asserting that the information is privileged or confidential shall appropriately identify and mark such information.

(d) Technical, financial, environmental, marketing and management information maintained by the Secretary under this regulation will be made available to the public subject to the provisions of 5 U.S.C. 552 and 18 U.S.C. 1905 and to other Government agencies in a manner that will facilitate its dissemination: *Provided, That:*

(1) Upon a showing satisfactory to the Secretary by any person that any information or portion thereof obtained under this program by the Secretary directly or indirectly from such person would, if made public, divulge trade secrets or other proprietary information of such person, the Secretary may not disclose such information, and disclosure thereof will be punishable under 18 U.S.C. 1905; and

(2) The Secretary may, upon request, provide such information to any delegate of the Secretary for the purpose of carrying out this Act, and the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Environmental Protection Agency, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under these regulations and other laws, but such agencies and agency heads may not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman.

(e) Except where the appendix or applicable solicitation procedure specifies a date for certain for submission of complete applications, information submitted by the applicant shall be updated and furnished to the

Secretary whenever there are significant changes occurring during the period that DOE is considering the guarantee application.

§ 796.32 Supporting information for a demonstration facility.

(a) The lender, if applicable, and borrower, shall provide information, as prescribed by the Secretary in applicable appendices and solicitation documents, to supplement the application. The following items are provided to illustrate the range of supporting information which may be required to enable the Secretary to prepare a recommendation with respect to any pending application:

(1) A full description of the scope, nature, extent, milestones and location of the proposed project and financial assistance sought;

(2) Evidence of the applicant's previous and current interest in alternative fuels technology, as related to the application;

(3) A description of the project's technical and economic feasibility including a detailed list of construction, startup and related costs for the entire project;

(4) A description of the applicant's organization, corporate charter, bylaws, appropriate authorizing resolutions, and when applicable, a copy of the business certificate or partnership agreement;

(5) The past financial history of the firm, including financial statements and projections as to the firm's future financial status;

(6) Business and financial interests of principal organizations (e.g., parent and/or subsidiary) of the applicant;

(7) A description of salaries and other financial remuneration, including profit sharing and stock options, to be paid to principal officers and principal employees of the applicant who are, or will be, directly associated with the project;

(8) Evidence supporting the applicant's ability to complete the project and an analysis of the market for the product to be produced from the demonstration facility and the relevant economic justifying the analysis;

(9) A description of the management plan of operations to be employed in carrying out the project;

(10) Information covering the management experience of each officer or key person associated with the project;

(11) Evidence showing that the amount of the financial assistance, together with other financing, will be sufficient to carry out and complete the project;

(12) Credit history of the borrower and any principal party who owns or controls a five percent or greater interest in the borrower and its major affiliates, if appropriate;

(13) A description of the intended sources and amount of capital, to be provided by the applicant for the construction and initial operation of the demonstration facility together with evidence of a commitment from the intended sources of such capital, a copy of each such agreement, and evidence of financial ability of each source to honor its commitment;

(14) A detailed, cash flow breakdown of the estimated construction, startup, and related costs, plus operating and maintenance costs, of the project, the amount of the financial assistance necessary and cash flow estimates for the first five years of project operation;

(15) The terms and conditions of the loan to be guaranteed, including the proposed interest charges and principal repayment schedule to the extent such information is known at the time of filing an application;

(16) A listing of assets, associated, or to be associated, with the project and which will serve as collateral for the loan, including appropriate data as to the value and useful life of any physical assets and a description of the value of any other associated security;

(17) Copies of all current or proposed contracts between the applicant and any third parties which are significant to the proposed project;

(18) A description of other Federal financial assistance (e.g., direct loans, guaranteed loans, grants) available or expected to be made available to the applicant in connection with the demonstration facility;

(19) Lists of all applications filed and approvals issued by Federal, state, and local government agencies for permits and authorizations to conduct construction and operations associated with the project. If these approvals have not been obtained, or applications not filed, the estimated date of such filings and approvals shall be provided;

(20) An environmental report prepared in accordance with the guidelines specified in the appendix(es) to this regulation or in the event that any Federal or state agency has prepared an environmental impact statement regarding this project, a copy of this document;

(21) A plan or program to acquire, evaluate and monitor the environmental, economic, social and technological impacts of the proposed demonstration facility, if appropriate;

(22) A copy of the applicant's plans for providing for small business concerns to participate in the project;

(23) A copy of the applicant's nondiscrimination policies and programs and information on any pending affirmative action complaints;

(24) A written affirmation from the applicant indicating its adherence to the Civil Rights Regulations (i.e., Title VI of the Civil Rights Act of 1964) (42 U.S.C. 2000a et seq. as amended), to Title IX of the Education Amendments of 1972 (20 U.S.C. et seq. 681), and to the Age Discrimination Act of 1975 (Pub. L. 84-135) which prohibits discrimination on the basis of race, color, national origin, sex, handicap and age, in programs and activities receiving Federal assistance, in grants, loans or assistance contracts from DOE;

(25) A written affirmation from the applicant indicating its adherence to applicable DOE's regulations regarding equal employment opportunity;

(26) A copy of the approval by the appropriate Indian tribe and Secretary of the Interior concerning the Indian Tribe's involvement, if applicable, with the applicant in the demonstration facility;

(27) A copy of the affirmation by the applicant supporting the necessity for a Federal loan guarantee. Applicant shall provide information necessary for a determination by the Secretary whether reasonable methods of financing other than a Federal guarantee or a cooperative agreement are available to the applicant;

(28) Other information as may be required by the Attorney General or the Chairman of the FTC to assess the impact of a specific loan guarantee or cooperative agreement on competition and concentration in the production of energy;

(29) An analysis of any adverse community impacts which may result from the AFDP;

(30) Any other information requested by the Secretary or specified in an appendix to this regulation or in a solicitation announcement, if applicable;

(b) If a lender has been specified by the applicant and has joined in the preparation of the application, then the following information from the lender shall be provided:

(1) Description of the lender's organization and legal authority under which the lender operates its business, together with a copy of any appropriate authorizing resolutions necessary for the transaction between the lender and applicant;

(2) Copies of investigations obtained from credit bureaus, references,

inquiries, and professional associations regarding the credit worthiness of the borrower;

(3) Information covering the management experience of each officer or key person in the lender's organizations who is or will be associated with the loan;

(4) A description of the management plan to be employed in serving and monitoring the loan;

(5) A written affirmation by the lender supporting the necessity for a Federal loan guarantee;

(6) The lender's written assessment of all aspects of the applicant's loan application, in sufficient detail, as would be completed by any prudent lender considering a loan without a guarantee;

(7) A copy of the proposed loan agreement to be executed by the applicant and the lender, together with copies of all other documents proposed by the lender to be used in the financial transactions;

(8) A copy of the lender's conditional loan commitment document issued to the applicant, if applicable;

(9) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of complex technological projects;

(10) Any proposed marketing plan under which the lender will sell any portion of the debt to secondary marketholders;

(11) A disclosure by the lender whether any of its officers, directors or major stockholders or other parties having a major financial interest in the lender have a financial interest in the applicant and whether any of the applicant's officers, directors, major stockholders or other parties having a major financial interest in the applicant have a financial interest in the lender; and

(12) Any other information requested by the Secretary or as may be specified in an applicable appendix(es) to this regulation or in a solicitation announcement, if applicable.

Subpart C—Application Processing

§ 796.40 Application processing for a loan guarantee for a demonstration facility.

(a) Upon receiving an application for a loan guarantee for a demonstration facility and other relevant information, the Secretary shall determine whether:

(1) The application is complete and in compliance with this regulation and the applicable appendices to this regulation;

(2) The type of technology, scope, size financial assistance sought, and geographic location of the project to be demonstrated falls within the AFDP

objectives and the applicable appendix and sufficient loan guarantee authority and appropriations are available to conduct the project;

(3) The adverse community impacts resulting from the proposed demonstration facility have been adequately evaluated by the applicant; and

(4) The terms and conditions of the proposed loan as set forth in the application are generally acceptable to the Secretary and whether there is satisfactory evidence that the lender, if applicable, is willing, competent and capable of performing the terms and conditions of the loan guarantee agreement;

(b) The Secretary will, upon completion of the determinations in paragraph (a) of this section, inform the applicant whether its application meets the initial requirements. Unless otherwise specified in an appendix to this regulation regarding the timely submission of the completed application (where an application is determined by the Secretary to be incomplete), the Secretary may request that the applicant provide additional information in order for the Secretary to further consider the application. Upon submittal of the requested information, the Secretary will determine whether the application meets the requirements of paragraph (a) of this section. If the Secretary thereafter determines that the application does not meet the initial requirements, the Secretary will inform the applicant of the basis of the disapproval of its application.

(c) If the Secretary determines that an application meets the requirements of paragraph (b) of this section, the Secretary shall inform:

(1) The governor of the state, officials of each political subdivision and Indian tribe(s), as appropriate, in which the facility would be located or which would be adversely impacted by such facility.

(2) The general public by notice in the Federal Register and in local newspapers (of general circulation in the geographic area where the demonstration facility would be located), to the extent appropriate. Such notice will provide general information on the demonstration facility and specify how interested parties may comment on the proposed application for financial assistance for such demonstration facility;

(3) The Secretary of Interior, if the proposed demonstration facility is to be located on Indian land or if a substantial portion of the feedstock for such facility

is to be obtained pursuant to an agreement with any Indian tribe; and

(4) The Advisory Council on Historic Preservation, which may review and comment upon applications for guarantees for any project which would affect property listed or eligible for listing in the National Register of Historic Places or which may meet the criteria for listing in the National Register, pursuant to 38 CFR Part 800.

(d) The governor of the state in which the proposed demonstration facility would be located shall be requested to submit to the Secretary written comments making a recommendation for or against the location of such facility within the governor's state within a reasonable period after the initial notification by the Secretary to such governor. The Secretary shall not guarantee or make a commitment to guarantee a loan for such a demonstration facility if the governor of the state in which the proposed demonstration facility would be located recommends, within a reasonable period of time after notification by the Secretary, that such action not be taken unless the Secretary finds that there is an overriding national interest in taking such action to achieve the purpose of this regulation. If the Secretary decides to guarantee or make a commitment to guarantee despite the affected governor's recommendation that such action not be taken by the Secretary, the Secretary shall communicate to the governor, in writing, reasons for such determination. The Secretary's decision shall be final unless otherwise determined upon judicial review by the reviewing court pursuant to 5 U.S.C. 706(a)(A) through (D). Such review shall take place in the United States Court of Appeals for the Circuit in which the state involved is located, upon application made within 90 days from the date of the Secretary's decision;

(e) After completing the initial determinations as required in paragraph (b) of this section, or after a competitive evaluation of applications in accordance with § 796.7 "Award procedural guidelines for loan guarantees," the Secretary shall forward the application(s) selected for possible award of a guarantee to the United States Attorney General and to the Chairman of the FTC. The Secretary shall request written views, comments and recommendations (for each application selected and forwarded) from both of these officials concerning the impact of a loan guarantee on competition and concentration in the production of energy. The Secretary shall give due consideration to the

views, comments and recommendations received from the Attorney General and the Chairman of the FTC. Upon receiving a recommendation from either the Attorney General or the Chairman of the FTC against the award of a guarantee to an applicant, the Secretary shall consider such recommendations in the selection of an applicant for an award of a loan guarantee as follows:

(1) The Secretary, after considering a negative recommendation from the Attorney General or Chairman of the FTC, may nevertheless consider to proceed with the award of the guarantee to such applicant, if the Secretary determines that the energy demonstration project offered by the applicant meets the overall goals of DOE and outweighs any negative recommendation by the Attorney General or Chairman of the FTC; or the Secretary may notify the applicant of the disapproval of its application with reasons for such disapproval;

(2) If the Secretary determines to award the guarantee to an applicant, in spite of the negative recommendation by the Attorney General or the Chairman of the FTC, the Secretary shall forward the decision papers and the recommendations of the Attorney General or the Chairman of the FTC to the President for a written decision on whether it is in the national interest to have the Secretary award a loan guarantee to the applicant; and

(3) If the President upholds the recommendation of the Attorney General or the Chairman of the FTC against making such guarantee, the Secretary shall notify the applicant that its application has been disapproved and the reasons for such disapproval.

(f) If the President upholds the Secretary's determination for awarding the loan guarantee to an applicant under paragraph (e) of this section or the Secretary has selected an applicant after receiving a favorable recommendation from both the Attorney General and Chairman of the FTC, the Secretary shall forward the relevant documents on the proposed demonstration facility of the applicant seeking the loan guarantee to the Secretary of the Treasury for his concurrence, with respect to the timing, interest rate and substantial terms of such loan guarantee prior to awarding the guarantee to the applicant. The Secretary of Treasury shall ensure to the maximum extent feasible that the timing, interest rate and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United

States, taking into account other Federal direct and indirect securities activities.

(g) The Secretary shall forward to the Chairman of the Committee on Science and Technology of the House of Representatives, and to the Chairman of the Committee on Energy and Natural Resources of the Senate, a full and complete report on the proposed demonstration facility of the applicant seeking the loan guarantee. The Secretary shall not finalize the loan guarantee prior to the expiration of 90 calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain) from the date on which such support on the proposed demonstration facility is received by such committees.

(h) In the event that a commitment to guarantee is to be issued, the Secretary shall not finalize such commitment to guarantee prior to the expiration of 90 calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain) from the date on which such report is received by such committee. After such period of time has expired, the Secretary may finalize the commitment to guarantee and the subsequent guarantee without further notification to the committees.

(i) The Secretary shall not finalize any loan guarantee or commitment to guarantee for a demonstration facility costing in excess of \$50 million unless such guarantee or commitment to guarantee is authorized by Congress, or both Houses of Congress pass a resolution approving such loan guarantee or commitment to guarantee.

(j) Upon obtaining the concurrence of the Secretary of Treasury with respect to the timing, interest rate and substantial terms of the loan guarantee prior to its award to an applicant, and complying with the other requirements of this section, the Secretary may award the loan guarantee or commitment to guarantee to the successful applicant.

§ 796.41 Application processing for a cooperative agreement for a modular size oil shale facility.

(a) Upon receiving an application for a cooperative agreement for a modular-size oil shale facility and other relevant information, the Secretary shall follow the procedures set forth in the proposed DOE assistance regulations on cooperative agreements (44 FR 20594, April 5, 1979) and applicable appendices to the AFDP regulation, and then determine:

(1) Whether the application is complete and in compliance with Section 8 and other provisions of the Act and with other applicable DOE regulations pertaining to cooperative agreements;

(2) If the type of technology, scope and size financial assistance sought and geographic location of the project to be demonstrated falls within the AFDP objectives and the applicable appendices and sufficient funding authority appropriations are available to conduct the project;

(3) If the adverse community impacts resulting from the proposed demonstration facility have been adequately evaluated by the applicant;

(b) Such processing procedures shall follow the same notification requirements and procedures as described in paragraphs (b), (c), (d), (e), (g), (h) and (i) of § 796.40, "Application processing for a loan guarantee for a demonstration facility."

§ 796.42 Closing requirements for a loan guarantee.

(a) When an application for a loan guarantee has been approved by the Secretary in accordance with the procedures described in § 796.40, "Application processing for a loan guarantee for a demonstration facility," the Secretary will notify the lender, if any, and the borrower and provide them with a copy of the proposed guarantee agreement or at that time with a copy of a commitment to guarantee.

(b) To the extent necessary, conferences will be arranged by the Secretary to discuss the terms and conditions contained in the guarantee agreement and other instruments relevant to the transaction.

(c) Upon agreement as to the terms and conditions of the guarantee agreement and other relevant instruments, a closing date agreeable to the parties shall be set.

Subpart D—Guarantee and Project Administration

§ 796.50 Loan servicing.

(a) The loan guarantee agreement shall provide that the lender service the guarantee in accordance with these regulations, except that another party may be selected by the Secretary to service the loan in the event that Federal Financing Bank is used or in other situations where such course of action is determined by the Secretary to be appropriate.

(b) The lender or other party servicing the loan shall exercise such care and diligence in the disbursement, servicing,

and collection of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without a guarantee.

(c) The lender or other party servicing the loan shall notify the Secretary in writing without delay:

(1) That the disbursement for the first project milestone is ready to be made, together with evidence from the borrower that the project has begun or is about to begin;

(2) Of the date and amount of disbursement for each subsequent milestone under the loan;

(3) Of any nonreceipt of payment within 15 days after the date specified for payment, together with evidence of appropriate notifications to the borrower;

(4) Of any known failure, by an intended source of capital to honor its commitment;

(5) Of any known failure by the borrower, to comply with terms and conditions as set forth in the loan agreement or guarantee agreement;

(6) Of a belief that the borrower may fall within any of the default conditions set forth in the loan agreement or the borrower may not be able to meet any future scheduled payment of principal or interest; or

(7) Of any significant changes from the original cash flow projections as evidenced from information and reports by the borrower.

(c) The guarantee agreement or related documents shall require the lender or other party servicing the loan to submit to the Secretary periodic financial reports on the status and condition of the loan;

§ 796.51 Loan disbursements.

(a) Unless otherwise provided in the guarantee agreement, the borrower shall not be provided with any funds under the guaranteed loan agreement until the lender or other party servicing the loan:

(1) Has complied with the notification requirements set forth in § 796.50(b)(1) and (2) of "Loan servicing" and has received written notice from the Secretary that the disbursement for the applicable milestone is approved; and

(2) Has received from the borrower satisfactory documentary evidence that loan drawdowns requested will be used to pay allowable project costs incurred or to be incurred by the borrower. The party servicing the loan or the Secretary may require the borrower to provide documentation setting forth the purposes for which the drawdown is requested and an attestation that the disbursements will be used only for such purposes. Signature on the requesting

document will be made by a person authorized to order the expenditure of the borrower's funds.

(b) The party servicing the loan may not release to the borrower drawdowns from any disbursements until the disbursements is approved by the Secretary.

(c) The party servicing the loan may not withhold from the borrower authorized disbursements, except as included in the provisions of the guarantee agreement, without the written approval of the Secretary.

§ 796.52 Financial assistance fund.

(a) As provided for in Section 19(n) of the Act, there is established in the Treasury of the United States a separate fund, hereafter referred to as the Fund, for the purpose of carrying out the provisions of paragraph (b), Section 19 of the Act.

(b) Appropriations to the Fund that are made available through legislation, repayments made by borrowers in accordance with the terms and conditions in principal and interest assistance contracts, guarantee fees, repayment of loans under Section 19(k)(1) of the Act, and any other moneys, property, or assets derived from operations of this loan guarantee program including foreclosure, repossession or sale of collateral shall be deposited in the Fund, and shall, except as otherwise provided by law, be available to the Secretary for payment to debt holders of principal and interest on loan guarantee agreements and principal and interest assistance contracts made in accordance with this regulation. In addition, balances in the Fund may be used for necessary administrative expenses incurred by DOE or other Federal agencies acting pursuant to DOE direction in carrying out the provisions of this regulation.

(c) If, at any time, the moneys available in the Fund are insufficient to enable the Secretary to pay principal and accrued interest in the event of default or principal and interest assistance payments, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amount as are specified in appropriation acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under this regulation.

Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the acquired notes or other obligations. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(d) The amounts in the Fund shall be without fiscal year limitations and remain available until expended, with the exception that, if at any time, the Secretary determines that moneys in the Fund exceed the present and foreseeable requirements of the Fund, such amounts in the Fund that are not required to secure outstanding financial assistance obligations shall be paid into the General Fund of the Treasury.

(e) Amounts as may be necessary for direct loans, cooperative agreements and grants for community impact assistance pursuant to Section 19(k)(8) of the Act shall be provided in annual appropriation acts.

§ 796.53 Reduction or withdrawal of a guarantee.

(a) The Secretary may reduce or withdraw the guarantee (as to amounts not yet disbursed or drawdown by the borrower) by written notice to the lender and to the borrower if the Secretary determines that:

(1) Initiation of activity on the project has not occurred within the period of time set forth in the guarantee agreement. Within 60 days after the guarantee is withdrawn under this circumstance, the Secretary shall reimburse to the lender the full amount of the guarantee fee paid by the lender if the fee has not been passed to the borrower;

(2) The borrower has failed to acquire the required capital from intended or alternate sources of such capital, or has failed to comply with material terms and conditions as set forth in the loan or guarantee agreement. The Secretary shall notify the borrower and the lender that the guarantee will be reduced to the amount of the loan that has been drawn down to the borrower as of the date of the notice. Drawdowns permitted to be made by the lender after such notification is received shall not be covered by a guarantee; or

(3) The lender has failed to comply with any material term or condition as set forth in the guarantee or loan agreement and the Secretary has determined that such breach will increase the financial exposure of the Government and that the guarantee should be withdrawn.

(b) If the Secretary finds that the lender has not complied with a material term of the guarantee or loan agreement, the Secretary will notify the borrower and the lender that the guarantee or loan agreement has been breached. Thereafter, the guarantee may be reduced in the discretion of the Secretary to the amount that has been provided by the lender to the borrower as of the date that the Secretary's notice has been received by the lender. Following notification of the Secretary's determination to reduce the guarantee, the borrower will be allowed reasonable time, in no event less than 6 months, to acquire a substitute lender that is capable of complying with the provisions in the loan and guarantee agreements. If the borrower obtains a substitute lender satisfactory to the Secretary, a new guarantee agreement will be executed.

(c) In the event the Secretary determines that the project's economic success cannot be achieved in accordance with the requirements specified in the guarantee agreement, the guarantee shall be reduced to amounts which have been received by the borrower as of the date of notice.

(d) In no case may the guarantee be reduced below amounts provided in good faith by the lender or holder.

§ 796.54 Assignment.

(a) Except as may be required by law, a holder may, with the Secretary's approval, assign to another party certain rights and obligations under the loan or guarantee agreement. Such assignment will be in accordance with the provisions of the guarantee agreement.

(b) The lender, except to the extent that specific limitations provided by law or in the guarantees do not permit, may provide other lenders with participating shares in the loan without the prior consent of the Secretary. The guarantee agreement shall specify to what extent and in what manner the loan may be divided into shares. The lender will give advance written notice to the Secretary when participating shares are so provided. The notice shall provide the participant's business name, address, telephone number, and name of official to contact.

(c) The original lender will continue to be responsible for and perform the

servicing provisions of the loan guarantee agreement unless the Secretary approves a substitute party to service the loan.

§ 796.55 Project monitoring.

The guarantee agreement or related documents shall provide that the DOE manager and other applicable DOE representatives shall have access to the project site at all reasonable times in order to monitor the performance of the project. The lender, to the extent lawful and within its control, and the borrower will assure availability of information related to the demonstration facilities as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guarantee. The guarantee agreement or related documents shall identify those items or types of information which the Secretary may not make available for public dissemination.

§ 796.56 Survival of financial assistance agreement.

(a) Loan guarantee agreements under this regulation shall be binding upon the lender, the borrower, the Secretary, and upon their successors and assignees. No delay or failure of the Secretary in the exercise of any right or remedy or partial exercise of any such right or remedy shall preclude any exercise of further rights or remedies; no action taken or omitted by the Secretary shall be deemed a waiver of any such further right or remedy.

§ 796.57 Other Federal assistance.

Nothing in this regulation shall be interpreted to deny or limit the borrower's right to seek and obtain other Federal financial assistance (e.g., grants, cooperative agreements, direct loans, or guaranteed loans) for a demonstration facility. For purposes of this section, other financial assistance does not include revenue sharing funds or any tax benefits. However, the total amount of Federal financial assistance obtained for such facility shall not, in the case of a loan guarantee agreement, exceed 75 percent of total costs; and, in the case of a cooperative agreement, exceed 75 percent of the construction, startup, and related costs, plus operation and maintenance costs. All receipts from the sale of any products produced during the operation of the modular facility (for which a cooperative agreement or loan guarantee has been awarded) shall be used to offset the

costs incurred in the operation and maintenance of the facility.

§ 796.58 Appeals.

The guarantee agreement shall include a provision which specifies that any dispute concerning a question of fact arising under the guarantee shall be decided in writing by the Secretary. The borrower or lender may request the Secretary to reconsider any such decision. If not satisfied with the Secretary's final decision, the borrower or lender upon receipt of such written decision, may appeal the decision within 30 days, in writing, to the Chairman, Energy Board of Contract Appeals (EBCA), Department of Energy, Washington, D.C. 20545. EBCA, when functioning to resolve such a dispute under a loan guarantee, shall proceed in the same general manner as when it presides over appeals involving contract disputes. The decision of EBCA with respect to such appeals shall be the final decision of the Secretary.

§ 796.59 Examination of project records.

(a) The guarantee agreement or related documents shall provide that the lender or other party servicing the loan, as applicable, and the borrower, shall keep such records concerning the project as is necessary to facilitate an effective audit and performance evaluation of the project and that the Secretary and the Comptroller General, or their duly authorized representatives, shall have access, for the purpose of audit and examination, to any pertinent books, documents, papers, and records of the borrower, lender and other party servicing the loan, as applicable. Such inspection may be made during the regular office hours of the borrower, lender, or other party servicing the loan, or at any other time mutually convenient. At six month intervals, the Comptroller General shall make an audit of recipients of financial assistance under this regulation.

Subpart E—Default

§ 796.60 Default, demand, payment, and collateral liquidation.

(a) In the event that the borrower has defaulted in the making of required payments of principal or interest on any portion of a loan guaranteed in accordance with the loan agreement, note, guarantee agreement or other collateral documents (or in breaching any material term or condition as specified in the guarantee), and such default has not been cured within the period of grace provided in the loan agreement, the lender, or any other holder, or nominee or trustee

empowered to act for the lender, or holder (referred to in this section collectively as "holder"), may make written demand upon the Secretary for payment pursuant to the guarantee agreement.

(b) In the event that the borrower is in default as a result of a breach of one or more of the terms and conditions of the guarantee agreement, note, loan agreement, or other contractual obligation related to the transaction, other than the borrower's obligation to pay principal or interest, as provided in paragraph (a) of this section, the holder may not automatically be entitled to make demand for payment pursuant to the guarantee, unless the Secretary agrees in writing that such default has materially affected the rights of the parties, and finds that the holder should receive payment of the outstanding guaranteed loan.

(c) No provision of this regulation shall be construed to preclude forbearance by the holder and the Secretary for the benefit of the borrower.

(d) Upon the making of demand for payment as provided in paragraph (a) or (b) of this section, the holder shall provide, in conjunction with such demand or immediately thereafter, at the request of the Secretary, such supporting documentation as may be reasonably required to justify such demand.

(e) Payment of the guaranteed loan shall be made 60 days after receipt by the Secretary of written demand for payment, provided that the demand complies with terms of the guarantee agreement, applicable law, and the Act. The guarantee agreement shall provide that interest shall accrue to the holder at the rate stated in the guarantee agreement until the defaulted loan has been fully paid by the Secretary.

(f) The guarantee agreement shall provide that, upon payment of the guaranteed portion of the loan by the Secretary, the holder shall transfer and assign to the Secretary all rights held by the holder in the guaranteed portion of the loan. Such assignment shall include the guaranteed portion of the loan and related security and collateral rights. Upon such payments and assignment, the Secretary shall be subrogated to the rights of the recipient of the payment and shall have superior rights in and to the property acquired from the recipient of the payment.

(g) Where the guarantee agreement so provides, the lender and the Secretary may jointly agree to a plan of liquidation of the collateral pledged to secure the guaranteed loan, and thereafter the

lender may undertake such liquidation and make application of the proceeds derived thereby in accordance with the terms and conditions of the loan and guarantee agreements and the written plan of liquidation.

(h) Where payment of the guaranteed loan has been made and the lender has not undertaken a plan of liquidation, the Secretary, in accordance with the rights received through subrogation and acting through the U.S. Attorney General, shall seek to foreclose on the collateral assets and take such other legal action as necessary for the protection of the Government.

(i) If the Secretary is awarded title to collateral assets pursuant to a foreclosure proceeding, the Secretary may take action to complete, maintain, operate, or lease the project facilities, or take any other necessary action which the Secretary deems appropriate, in order that the original goals and objectives of the project will, to the extent possible, be realized.

(j) In addition to foreclosure and sale of collateral pursuant thereto, the U.S. Attorney General shall take appropriate action in accordance with rights contained in the guarantee agreement to recover costs incurred by the Government as a result of the defaulted loan. Any recovery so received by the U.S. Attorney General on behalf of the Government shall be applied in the following manner. First to the expenses incurred by the U.S. Attorney General and DOE in effecting such recovery; second, to reimbursement of any amounts paid by the legal owners of interests in the loan, prorated in accordance with their relative percentage ownership of the loan; third, to any amounts owed to DOE under related principal and interest assistance contracts; and fourth to any other lawful claims held by the Government on such proceeds. Any sums remaining after full payment of the above shall be available for the benefit of other parties lawfully entitled to claim them.

(k) If a partial guarantee is involved, funds received by the lender as a result of liquidation actions will be applied as follows:

(1) First, to the payment of reasonable and customary fees and expenses incurred in the liquidation process, and as set forth in the liquidation plan; and

(2) Second, distributed among the legal owners of interests in the loan; prorated in accordance with their relative percentage ownership of the loan.

(l) No action taken by the lender in the liquidation of any assets pledged by the borrower will affect the rights of any

party, including the Secretary, having an interest in the loan to pursue, jointly or severally, to the extent provided in the loan agreement, legal action against the borrower, or other liable parties, for any deficiencies owing on the guaranteed balance after application of the proceeds received upon liquidation.

(m) In the event that the Secretary considers it necessary or desirable to protect or further the interest of the United States in connection with the liquidation of collateral or recovery of deficiencies due under the loan, the Secretary will take such action as may be appropriate under the circumstances.

(n) Nothing in this section may preclude the Secretary from purchasing the holder's interest in the project upon liquidation.

§ 796.61 Perfection of liens and preservation of collateral.

(a) The guarantee agreement or other documents related thereto shall provide that: (1) The lender will take those actions necessary to perfect and maintain liens, as applicable, on assets which are pledged collateral for the guaranteed portion of the loan; and (2) upon default by the borrower, the holder of pledged collateral shall take actions such as the Secretary may reasonably require to provide for the care, preservation, protection and maintenance of such collateral so as to enable the United States to achieve maximum recovery upon default of the loan. The Secretary shall reimburse the holder of collateral for reasonable and appropriate expenses incurred in taking actions required by the Secretary. Except as provided in § 796.60, no party may waive or relinquish, without the consent of the Secretary any collateral for the loan to which the United States would be subrogated upon payments under the guarantee agreement.

(b) In the event of a default, the Secretary may enter into contracts as required to preserve the collateral for the loan and to complete unfulfilled environmental requirements. The cost of such contracts may be charged to the fund.

(c) If any of the assets offered by the borrower as collateral for the debt guaranteed are subject to prior financing liens by other creditors, DOE will require that such prior liens be removed, or an acceptable legal arrangement be made with such prior lien creditors where DOE will be protected in the event of default. An arrangement of this nature must be in the form of a written agreement between DOE and the prior lien creditors and provide the following conditions:

(1) Ample notice of default and collateral sale;

(2) A plan of liquidation offering mutual protection to DOE and other creditors; and

(3) An option on the part of DOE, which would be assignable to a third party, to have the first lien debt payable according to the original installment terms (even after default) if the project operation is undertaken by DOE or an acceptable third party or on behalf of or through DOE.

Subpart F—Community Impact Assistance

§ 796.70 Purpose of community impact assistance.

The purpose of this subpart is to set forth the policies and procedures under which states, political subdivisions, or Indian tribes may assess adverse community impacts that result from the siting, construction and operation of demonstration facilities financed under this regulation. This subpart also sets forth procedures on how states, political subdivisions or Indian tribes adversely impacted (as defined in § 796.3(u) of this regulation) by the siting, construction and operation of a demonstration facility within their jurisdictions or adjacent jurisdictions may obtain community impact assistance.

§ 796.71 Community impact assistance.

(a) The Secretary may provide the following forms of community impact assistance to eligible applicants as further described in this subpart.

(1) A planning assessment grant to a governor of a state and Indian tribe, as appropriate, in which a proposed demonstration facility would be located or which would be adversely impacted by such facility in that state or on Indian land;

(2) A management grant to a political subdivision or Indian tribe, as appropriate, adversely impacted by the construction and operation of a demonstration facility;

(3) A loan guarantee to a political subdivision or Indian tribe, as appropriate, adversely impacted by the construction and operation of a demonstration facility receiving a loan guarantee under this regulation. In the case of loan guarantees for essential community development, two types of loan guarantees may be awarded:

(i) A guarantee of the payment of interest and principal on loans for financing issued by a political subdivision or an Indian tribe, as appropriate, for essential community development necessitated by the

construction and operation of such a demonstration facility;

(ii) A guarantee of the payment of taxes imposed on a demonstration facility by a political subdivision or an Indian tribe, as appropriate, and earmarked to support the payment of interest and principal of loans issued by such political subdivision or Indian tribe, as appropriate, for the purpose of financing essential community development;

(4) A requirement that an applicant obtaining financial assistance for a demonstration facility under this regulation advance funds for management and essential community development to a political subdivision or Indian tribe, as appropriate, in which such facility would be located or which would be adversely impacted by such facility; provided that tax abatement credits are provided by the appropriate political subdivision or Indian tribe to the applicant (obtaining financial assistance for its demonstration facility) over the life of the demonstration facility for such advance payments;

(5) Direct loans by the Secretary to a political subdivision or Indian tribe, as appropriate, for financing essential community development where the Secretary finds that the financial assistance available under paragraphs (a) (3) and (4) of this section is inadequate or unavailable to carry out the intent of the community impact assistance program;

(6) A requirement that an applicant seeking financial assistance for a demonstration facility under this regulation construct essential community development as ancillary to that of the demonstration facility where the political subdivision or Indian tribe lacks the capability to finance this essential community development. The costs of this essential community development would be borne by the applicant seeking financial assistance for the demonstration under this regulation and would be included within the cost of the demonstration facility.

(b) The Secretary may guarantee, or commit to guarantee, up to a maximum of 100 percent of a political subdivision's or Indian tribe's loans for financing such essential community development or of the the tax revenue stream which is expected from the demonstration facility.

(c) The Secretary may provide an eligible applicant with up to a maximum of 100 percent of the costs, for planning assessment and management grant tasks.

(d) When one or more states, political subdivision, or Indian tribes would be

eligible for community impact assistance under this regulation, but for the fact that the siting, construction and operation of the demonstration facility occurs outside of its jurisdiction but a state, political subdivision or Indian tribe, as appropriate, would be adversely impacted by such demonstration facility the Secretary is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of the assistance between such parties.

(e) Prior to receipt of an application for community impact assistance, the Secretary may conduct preliminary discussions with prospective applicants wishing to obtain information or advice regarding eligibility for such assistance and regarding compliance with filing instructions, including the submission of supporting information, as described in § 796.77, 796.82 and 796.89. Supporting information and cost data submitted by the applicant for community impact assistance under this regulation shall be updated and furnished to the Secretary whenever there are changes occurring during the period that DOE is considering the application.

(f) Applications by eligible applicants for financing essential community development will be considered in the following order of priority:

(1) Loan guarantees as described in paragraph (a)(3) of this section;

(2) Advancements of funds as a project cost by the applicant seeking financial assistance for a demonstration facility as described in paragraph (a)(4) of this section;

(3) Direct loans as described in paragraph (a)(5) of this section; and

(4) A least favored approach, as described in paragraph (a)(6) of this section, may be used only where the lack of community or other public capability to administer the initial provision of such essential community development would necessitate direct construction (by the applicant obtaining either a loan guarantee or a cooperative agreement for its demonstration facility) of such essential community development as ancillary to that of the demonstration facility. The costs of this essential community development would be included within the costs of the demonstration facility and the applicant obtaining such financial assistance for its demonstration facility would arrange for the construction of this essential community development under the Secretary's direction and with the greatest possible local public participation.

(g) All forms of community impact assistance described in paragraphs (a)

(1), (2), (3) and (5) of the section must comply with the following requirements:

(1) A written affirmation that the application has complied with the certificate of assurance requirements (in 26 CFR 42.406) setting forth nondiscrimination policies and procedures in federally assisted programs.

(2) A written affirmation from the applicant indicating its adherence to the Civil Rights Regulations (i.e., Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000a-et. seq. as amended), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the Age Discrimination Act of 1975 (Pub. L. 94-135)) which prohibit discrimination on the basis of race, color, national origin, sex, handicap, and age, in programs and activities receiving Federal assistance, or grants, loans, or assistance contracts from DOE:

(3) A written affirmation from the applicant indicating its adherence to the applicable DOE regulations regarding equal employment opportunity; and

(4) The applicant's plans for providing small business concerns the opportunity to participate in essential community development to the optimum extent feasible consistent with the size and nature of the essential community development.

§ 796.72 DOE technical assistance.

DOE technical assistance may be requested by an eligible applicant for impact assistance at anytime or in addition to the other forms of impact assistance as described in § 796.71, "Community impact assistance." Such assistance may be provided in the form of information, data, studies, research, or by temporary utilization of Federal employees as approved by the Secretary.

§ 796.73 Coordination with other Federal agencies.

(a) No community impact assistance shall be awarded or disbursed under this regulation if other Federal funds are available for such purposes, unless the Secretary is assured that such assistance:

(1) Is to be used in addition to, and not in lieu of, any Federal funds obtained under any other law; and

(2) Is not duplicative of other funding assistance.

(b) When assistance from other Federal programs is insufficient to cover essential community development or when combinations of assistance from multiple Federal programs are appropriate and beneficial, an applicant for community impact assistance may

request financial assistance under these regulations and other Federal programs.

§ 796.74 Eligibility for a planning assessment grant.

(a) After the Secretary knows of the geographic location of a proposed demonstration facility and has informed the governor of the state, officials of each political subdivision and Indian tribes, as appropriate, in which the facility would be located or which would be adversely impacted by such facility, community impact assistance in the form of a planning assessment grant may be considered by the Secretary if a complete application has been submitted by an eligible applicant. Such applicant maybe:

(1) A governor of a state in which the demonstration facility would be located or a governor of a state which would be adversely impacted by such demonstration facility; and/or

(2) An Indian tribe on whose land a demonstration facility would be located or where a substantial portion of the feedstock for such facility is to be obtained pursuant to an agreement with an Indian tribe.

§ 796.75 Eligibility for a management grant.

(a) Community impact assistance in the form of a management grant may be considered by the Secretary if all of the following conditions prevail:

(1) The Secretary and the applicant for financial assistance for a demonstration facility have entered into a loan guarantee or a cooperative agreement under this regulation for the purpose of constructing a demonstration facility; and

(2) The applicant for a management grant is: (i) A political subdivision adversely impacted by the construction and operation of a demonstration facility within its jurisdiction or adjacent thereto; and/or

(ii) An Indian tribe adversely impacted by the construction and operation of a demonstration facility on its land or where a substantial portion of the feedstock for such demonstration facility is to be obtained pursuant to an agreement with the Indian tribe.

§ 796.76 Applications for a planning assessment grant or a management grant.

(a) An application for a planning assessment grant or a management grant may be filed by an eligible applicant as described in § 796.74 "Eligibility for a planning assessment grant," or in § 796.75, "Eligibility for a management grant," respectively. Such application shall be submitted in accordance with the provisions of the

DOE regulations applicable to grants (DOE assistance regulations 44 FR 12920-12934, March 8, 1979) and shall be in such form and detail as the Secretary may further prescribe. The application for the grant shall be signed by an appropriate official authorized to obligate the applicant.

(b) An application for a planning assessment grant should be filed by an eligible applicant, within a reasonable time after the Secretary has notified the eligible applicant of the location of a demonstration facility as required in paragraph (c)(1) of § 796.40 or as required in paragraph (b) of § 796.41 of this regulation.

(c) An application for a management grant should be filed by an eligible applicant anytime after the Secretary has forwarded to the Chairman of the Committee on Science and Technology of the House of Representatives and to the Chairman of the Committee on Energy and Natural Resources of the Senate, a full and complete report on the proposed demonstration facility(ies) for an award of a loan guarantee or a cooperative agreement.

§ 796.77 Supporting information for a planning assessment grant and a management grant.

(a) The applicant for either a planning assessment grant or a management grant shall provide the following information in support of its application:

(1) A plan of action pertaining to the scope and detail of how the proposed planning assessment grant tasks or management grant tasks will be accomplished;

(2) The kinds of data to be collected and maintained;

(3) The criteria to be used to evaluate the results and successes of the plan of action;

(4) A list of the key individuals (and their experience) who will be associated with the planning assessment or management grant tasks;

(5) A description of other Federal or state financial assistance available (e.g., grants or loans) or expected to be made available in connection with the planning assessment or management grant tasks and for any assistance which would alleviate any adverse community impacts;

(6) Evidence showing that the amount of a planning assessment grant or a management grant together with any other financial assistance or funds otherwise available to the applicant will be sufficient to carry out and complete planning assessment and management grant tasks;

(7) As to management grants: (i) A description of the applicant's organization charter, bylaws, and authorizing resolution;

(ii) Information regarding whether the applicant has insufficient funds to perform the tasks required by the management grant; and

(iii) A current 5-year budget plan indicating new and existing programs and the new essential community development required to be constructed as a result of the siting, construction and operation of a demonstration facility.

§ 796.78 Planning assessment grant and management grant conditions and requirements—general.

(a) A planning assessment grant and a management grant shall be made only if the following requirements and conditions are met as determined by the Secretary:

(1) The assistance recipient for either a planning assessment grant or a management grant agrees to comply with the terms and conditions of the grants as set forth in the DOE regulations applicable to grants (DOE assistance regulations 44 FR 12920-12934, March 8, 1979);

(2) The grant covers only the proposed work which was approved by the Secretary;

(3) The grant agreement provides for reports at such time and in such format as the Secretary prescribes and shall specifically require delivery, at a time certain, of a final report which specifies the results of the study undertaken by the grantee.

(b) In the case of a planning assessment grant, the assistance recipient shall undertake a study indicating existing and planned community development programs of the assistance recipient and assessing the impact of a demonstration facility on the assistance recipient. The study shall include, but not be limited to the following information:

(1) Economic impacts: Such as, secondary employment and characteristics, employment earnings, per capita and per household income, retail sales and service receipts;

(2) Demographic and social impacts: Such as, total population, population age distribution, school enrollment, household and family characteristics, housing requirements, and needs for health, protective service and other social service personnel;

(3) Land use impacts: Such as, land requirements for business, industry, residential development, schools, and other community facilities;

(4) Local government impacts: Such as, capital and operating costs of schools, roads, utilities, and other community facilities and services, the property tax and other local revenues likely to be generated by private residential and nonresidential development; and

(5) Mitigating measures: As used in this regulation, the term "mitigating measure" applies to any policy available to public or private agencies which would respond in a significant way to the adverse impacts of such demonstration facility. Identification of such mitigating measures should be linked to the assessment of the above listed impacts in paragraphs (b)(1) to (4) of this section.

(c) The assistance recipient of a planning assessment grant shall submit a report setting forth its findings and conclusions within three months after the award of such grant.

(d) In the case of a management grant, the assistance recipient shall undertake a study which shall develop at least the following information:

(1) A five-year plan and budget which identify land use changes, economic impacts, demographic and source impacts, essential community development needs, mitigating measures and a schedule of implementation. It is the intent of the Secretary to allow flexibility and provide the assistance recipient with an opportunity to emphasize the planning components or those components which present the most serious problem or require the most effort. The plan need not be comprehensive to the extent that it addresses with equal attention all components of the assistance recipient's essential community development plan. However, it should rank the assistance recipient's needs and produce a document with emphasizes a plan, procedure, and program for the assistance recipient's most pressing growth management problem(s).

(2) Identification of funding requirements for financing essential community development, land use changes, personnel staffing costs to monitor essential community development and the construction and operation of the demonstration facility and other measures to prevent or mitigate adverse community impacts which would result from the construction and operation of the demonstration facility.

(e) The recipient of a management grant shall be required to submit a report within six months of the date of the award of this grant setting forth the findings and conclusions describing the

community impact needs and the steps to be taken to prevent or mitigate adverse community impacts which would result from the construction and operation of the demonstration facility.

§ 796.79 Grant application processing.

(a) Planning assessment and management grant applications will be evaluated by the Secretary to determine:

(1) Whether they are complete;

(2) Whether they comply with the provisions of the DOE regulations applicable to grants;

(3) The merit and relevance of the scope of the planning assessment and management grant tasks to the objectives of the AFDP;

(4) Whether the proposed costs are reasonable and applicable to the planning assessment and management grant tasks to be performed and with respect to the size of the demonstration facility proposed and the range of possible adverse community impacts;

(5) Whether the applicant has demonstrated that it lacks the capability to finance the tasks required under a management grant;

(6) Whether equitable sharing of such assistance is warranted when one or more applicants would be eligible for such grants; and

(7) Whether the application meets the requirements of the DOE regulations pertaining to grants.

(b) After the Secretary has evaluated the items in paragraphs (a)(1) through (7) of this section, the Secretary shall notify the applicant for a planning assessment grant and/or management grant if the Secretary approves the application or a portion thereof and the DOE funding to be awarded to such applicant. In the event the Secretary does not approve an application for a planning assessment and/or management grant the Secretary shall provide the applicant with a written statement setting forth the reasons therefore.

§ 796.80 Eligibility for a loan guarantee for the purpose of financing essential community development.

(a) An eligible applicant for a loan guarantee for financing essential community development may be:

(1) A political subdivision adversely impacted by the construction and operation of a demonstration facility within its jurisdiction or adjacent jurisdiction; and/or

(2) An Indian tribe adversely impacted by the construction and operation of a demonstration facility on its land or where a substantial portion of the feedstock for such demonstration

facility is to be obtained pursuant to an agreement with an Indian tribe.

(b) No loan guarantee for essential community development will be awarded until the Secretary has awarded a loan guarantee or a cooperative agreement for a demonstration facility.

§ 796.81 Filing an application for a loan guarantee for the purpose of financing essential community development.

(a) An application for a loan guarantee for the purpose of financing essential community development must be filed by an eligible applicant, as described in § 796.80, "Eligibility for a loan guarantee for the purpose of financing essential community development." Such application shall be submitted in accordance with the following requirements:

(1) The application must be submitted in such form and detail as the Secretary prescribes; and

(2) The application must be signed by an appropriate official authorized to obligate the applicant to the terms and conditions of such guarantee.

(b) While the Secretary is considering an application for a loan guarantee or a request for a cooperative agreement for a demonstration facility, community impact assistance in the form of a loan guarantee for financing essential community development may be considered upon the filing of an application for such impact assistance by an eligible applicant.

§ 796.82 Supporting Information for a loan guarantee for the purpose of financing essential community development.

(a) The following information shall be provided by the eligible applicant in support of an application for a loan guarantee for the purpose of financing essential community development:

(1) A full description of the scope, nature, location of existing community development already planned for the next five years and not related to the construction and operation of a demonstration facility under this regulation;

(2) A description of how the community development in paragraph (a)(1) of this section will be financed;

(3) A description of the applicant's organization, charter, bylaws, and appropriate authorizing resolutions, projected revenues and expenditures for the next 5 years;

(4) A full description of the scope, nature and geographic location of the proposed essential community development necessitated by the construction and operation of a

demonstration facility under this regulation and the financial assistance needed;

(i) Evidence supporting the applicant's ability to complete the essential community development necessitated by the construction and operation of a demonstration facility under this regulation;

(ii) A description of the management plan of operations (additional personnel staffing needed) to be employed in carrying out this essential community development;

(iii) Information covering the management experience of each key person associated with the essential community development;

(iv) A description of the intended sources and amount of capital, together with evidence of a commitment from these sources, a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment;

(v) A description of any other Federal or state financial assistance available (e.g., direct loans, guaranteed loans, grants) or expected to be made available in connection with the essential community development;

(vi) Evidence showing that the amount of the financial assistance, together with other financing, will be sufficient to carry out and complete this essential community development;

(vii) A detailed breakdown of the estimated construction, and related costs, plus operating and maintenance costs, of the essential community development and the amount of the financial assistance necessary;

(viii) The face amount of the loan to be guaranteed, when appropriate;

(ix) A listing of assets associated, or to be associated, with the essential community development loan, including appropriate data about the value and useful life of any such assets, which assets which assets will be pledged as security for repayment of the guaranteed loan;

(x) The proposed interest charge payments and principal repayment schedule, if any have been formulated;

(xi) Lists of all applications filed and approvals issued by Federal, state, and local government agencies for permits and authorizations to conduct construction and operations associated with the essential community development. If such approvals have not been obtained, provide estimate date of such filings or approvals;

(xii) A copy of environmental data (relating to the essential community development) collected by the applicant (see § 796.10, "Demonstration facility

requirements and conditions," of Subpart A of this regulation);

(xiii) Applicant's existing programs or plans for providing for small business concerns to participate in the design and construction of such essential community development;

(xiv) A copy of the applicant's existing nondiscrimination policies and programs and an indication of pending affirmative action complaints;

(xv) Copies of present and previous bond ratings of the applicant, if any;

(xvi) Any other information requested by the Secretary or may be specified in an appendix to this regulation as it applies to a loan guarantee for essential community development;

(b) In addition to the information set forth in paragraph (a) of this section, the application for a loan guarantee shall include the following information from the lender, if applicable:

(1) Description of the lender's organization and legal authority under which the lender operates together with any appropriate authorizing resolutions necessary for the transaction;

(2) Information covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan; and

(3) A description of the management plan to be employed by the lender in servicing and monitoring the loan;

(4) The lender's written assessment of all aspects of the applicant's loan application, in sufficient detail as would be completed by any prudent lender considering a loan without a guarantee;

(5) A copy of the proposed loan agreement, if any, to be executed by the applicant and the lender together with copies of all other documents proposed by the lender to be used in the financial transaction;

(6) Any proposed marketing plan whereby the lender will sell any portion of the debt to secondary market holders.

(c) Any other information requested by the Secretary in order to evaluate fully the application.

§ 796.83 Allowable project costs for essential community development.

(a) All reasonable and customary costs relating to construction and initial operation that are paid, expected to be paid, and which are directly related to the essential community development necessitated by the construction and operation of a demonstration facility under this regulation, may be permitted in computing the allowable costs for such essential community development. As guidance for which costs will be allowable, reference should be made to

§ 796.9, "Project Costs," of this regulation.

(b) The Secretary may audit any or all cost elements included by the applicant in the estimated project cost and reserves the right to exclude or reduce the amount of any allowable project cost which the Secretary determines to be unnecessary or excessive. The applicant shall make available records and other data necessary to permit the Secretary to carry out such review. In carrying out his responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

§ 796.84 **Guarantee requirements and conditions for the purpose of financing essential community development.**

(a) A loan guarantee may be made to an eligible applicant for financing essential community development as described in § 796.80, "Eligibility for a loan guarantee for the purpose of financing essential community development," if the following requirements and conditions are met as determined by the Secretary:

(1) Full repayment of the guaranteed loan is to be made over the lesser of 20 years or a period equal to 90 percent of the expected average useful economic life of the project's major physical assets. In calculating such period, the Secretary shall utilize generally accepted accounting principles and practices;

(2) There is reasonable assurance of repayment by the borrower of interest and a guaranteed portion of the loan;

(3) There is satisfactory evidence that the borrower is willing, competent and capable of performing the terms and conditions of the loan;

(4) The loan guarantee agreement includes such detailed terms and conditions as the Secretary deems appropriate to protect the interests of the United States in the case of default;

(5) The lender agrees not to accelerate payment of the borrower's indebtedness except for default without the prior written consent of the Secretary;

(6) The terms and conditions set forth in the loan guarantee agreement are acceptable to the Secretary;

(7) The amount of the guaranteed obligation, when combined with funds available to the applicant from other sources, will be sufficient to carry out the essential community development for which the guarantee is made;

(8) DOE and the applicant for financial assistance for a demonstration

facility have entered into a loan guarantee or a cooperative agreement for construction of a demonstration facility under this regulation;

(9) The applicant (borrower) agrees to incorporate or cause to be incorporated into all construction contracts under the guaranteed loan provisions prescribed by 41 CFR Part 60 pursuant to Executive Order 11236, September 28, 1965, 30 FR 12319, regarding the promotion and assurance of equal employment opportunity;

(10) Wages and rates to be paid to laborers and merchants employed by contractors or subcontractors in the performance or construction work are not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C., 276a-5);

(11) The borrower agrees to carry out an acceptable plan for small business concerns to participate in the essential community development program to the optimum extent feasible;

(12) The borrower and lender agree that no person in the United States shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the essential community development program on the ground of race, color, religion, natural origin, sex, handicap or age;

(13) The major activities leading to the closing of a loan guarantee or commitment to guarantee are complied with as described in § 796.42 "Closing requirements for a loan guarantee," of this regulation;

(14) The requirements of the sections under Subpart D of this regulation have been complied with;

(15) The applicant (borrower) agrees to comply with the Flood Disaster Protection Act of 1973 (Pub. L. 92-234), if applicable;

(16) The guaranteed loan shall be in a first lien position regarding all assets of the project except title to the facility;

(17) When a lender holds a guaranteed and a nonguaranteed portion of a loan, payments of principal or interest made by the borrower shall be applied by the lender to reduce the guaranteed and nonguaranteed portions of the loan on a proportionate basis;

(18) Income from the loan to be guaranteed is not excluded from gross income for the purposes of Chapter I of the Internal Revenue Code of 1954.

§ 796.85 **Loan agreement requirements and conditions for a loan guarantee.**

(a) In addition to meeting the requirements in § 796.84, a guarantee may be provided only if the loan

agreement to which the guarantee applies provides for the following requirements and conditions:

(1) The orderly and ratable retirement of the loan, and includes sinking fund provisions, installment payment provisions, or other methods of payment and reserves as may be required by the Secretary; to the maximum extent possible, repayment or provision therefor shall be required to be made in equal payments payable at equal intervals;

(2) A minimum period of grace of 60 days from the date a principal or interest payment is due; any extension of time over this grace period must be agreed to by the Secretary;

(3) Acceptable provisions for prepayment and acceleration of the loan are included;

(4) Security for the repayment of the loan will be specified by the Secretary, except that in the event of default, demonstration facilities constructed with funds guaranteed by DOE shall not be considered project assets.

(b) Such other terms and conditions required by the Secretary for the protection of the interests of the United States.

§ 796.86 **Loan guarantee application processing.**

(a) Upon receiving Congressional authorizations and appropriations for loan guarantees for financing essential community development, the Secretary will consider an application for a loan guarantee and other relevant information and shall:

(1) Determine whether the application is complete and in compliance with all applicable provisions of this regulation;

(2) Determine whether the eligible applicant seeking such guarantee would be adversely impacted by the construction and operation of a demonstration facility within its jurisdiction or adjacent jurisdiction;

(3) Determine whether the community development proposed by the applicant is essential;

(4) Assess and evaluate the financial, environmental, and managerial aspects of the essential community development;

(5) Review the applicant's plans for essential community development to be constructed, and the proposed costs, under a loan guarantee;

(6) Determine if there is sufficient evidence that the applicant will initiate and complete the essential community development in a timely, efficient, and acceptable manner;

(7) Determine if the terms and conditions set forth in the loan

agreement are acceptable and whether there is satisfactory evidence that the lender or other party servicing the loan is competent to administer the terms and conditions of the loan guarantee agreement;

(8) Determine if the impacts resulting from the demonstration facility have been fully evaluated not only by the applicant for financial assistance for its demonstration facility, but also by the political subdivision or Indian tribe, as appropriate, in the management and planning assessment grant stages; and that effective steps have been taken or will be taken in a timely manner to finance essential community development costs resulting from such demonstration facility;

(9) Determine if the applicant lacks the capability to finance such essential community development from tax revenues, Federal or State financial assistance programs or other sources;

(10) Determine if there is satisfactory evidence that the lender, if any, is competent to administer the terms and conditions of a loan guarantee;

(11) Obtain the concurrence of the Secretary of Treasury with respect to the timing, interest rate and substantial terms of the loan guarantee for financing essential community development. The Secretary of Treasury shall ensure to the maximum extent feasible that the timing, interest rate and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

(12) Request the Advisory Council on Historic Preservation views and comments upon applications for guarantees for any essential community development which would affect property listed or eligible for listing in the National Register of Historic Places or which may meet the criteria for listing in the National Register, pursuant to 36 CFR Part 800.

(b) Upon completion of the determinations set forth in paragraph (a) of this section, the Secretary may award a loan guarantee to the applicant. In the event an application is rejected, the Secretary will notify such applicant with reasons for the nonapproval of the application.

§ 796.87 Eligibility for a direct loan.

(a) Financial assistance to an applicant in the form of a direct loan for financing essential community development may be considered upon obtaining specific authorization and appropriations from Congress for such

purpose by the Secretary if the applicant for the loan:

(1) Is a political subdivision adversely impacted by the construction and operation of a demonstration facility within the political subdivision's jurisdiction or adjacent thereto; and/or

(2) Is an Indian tribe adversely impacted by the construction and operation of a demonstration facility on its land or where a substantial portion of the feedstock for such demonstration facility is to be obtained pursuant to an agreement with an Indian tribe; and

(3) The Secretary has determined that the impact assistance provided under paragraphs (a)(3) and (4) of § 796.71 "Community impact assistance," is inadequate or unavailable to the eligible applicant to carry out the construction of such essential community development.

§ 796.88 Filing an application for a direct loan.

(a) An application for a direct loan for the purpose of financing essential community development must be filed by an eligible applicant as described in § 796.87 "Eligibility for a direct loan," and be in accordance with the following requirements:

(1) The application must be submitted in such form and detail as the Secretary prescribes;

(2) The application must be signed by an appropriate official authorized to obligate an eligible applicant to the terms and conditions of this direct loan;

(3) The application must be filed within a reasonable period after the Secretary has forwarded to the Chairman of the Committee on Science and Technology of the House of Representatives and to the Chairman of the Committee on Energy and Natural Resources of the Senate, a full and complete report on the proposed demonstration facility of an applicant seeking a loan guarantee or a cooperative agreement;

§ 796.89 Supporting information for a direct loan.

(a) Information shall be provided in support of the application for a direct loan for the purpose of financing essential community development in such form and with such content as provided herein:

(1) A description of the applicant's organization, charter, bylaws, and appropriate authorizing resolutions;

(2) Notification to the Secretary that the impact assistance provided under paragraphs (a)(3) and (4) of § 796.71 "Community impact assistance," is

inadequate or unavailable to carry out the essential community development;

(3) Reasons why the impact assistance provided under paragraphs (a)(3) and (4) of § 796.71 "Community impact assistance," is inadequate or unavailable to carry out the essential community development;

(4) A full description of the scope, nature, and location of any essential community development needed for which funds are not available;

(5) A detailed breakdown of the estimated construction and related cost information for any essential community development and any overruns on the initial estimate of essential community development;

(6) A description of the intended sources and amounts of capital, together with evidence of a commitment from these sources, a copy of each such agreement and evidence of the financial ability of each source to honor its commitments;

(7) Evidence showing that the amount of the additional financial assistance (i.e., direct loans), together with other financing, will be sufficient to carry out and complete such essential community development under this section;

(8) A description of any other Federal or state financial assistance available (e.g., loans and loan guarantees) or expected to be made available in connection with the essential community development under this section;

(9) Evidence supporting the applicant's ability to complete the essential community development;

(10) The description of the management plan of operations to be employed in carrying out the essential community development; the personnel staff needed by the applicant to monitor all stages of the essential community development and to monitor the demonstration facility construction and operation stages; a list of all key personnel who will be involved in the essential community development;

(11) A listing of the assets associated or to be associated with the essential community development including appropriate data as to the value and useful life of any physical assets and a description of the value of any other associated security;

(12) Any environmental data (relating to the essential community development) collected by the applicant. (See § 796.10 "Demonstration facility requirements and conditions," of Subpart A of this regulation);

(13) Lists of all applications filed and approvals issued by Federal, state, and local government agencies for permits

and authorizations to conduct the construction and operation phases associated with the essential community development. If such approvals have not been obtained, provide estimated date of such filings or approvals;

(14) Proposed method of repaying the loan;

(15) Copies of present and previous bond ratings of the applicant, if changed from its initial submission.

(b) In addition to the above required information, the applicant shall provide such other information as the Secretary may deem pertinent.

§ 796.90 Direct loan requirements and conditions.

(a) An agreement for a direct loan for the purpose of financing essential community development shall include the following requirements and conditions:

(1) The orderly retirement of the loan, and include installment payment provisions, or other methods of payments and reserves as may be reasonably required by the Secretary;

(2) An extension of time over the specified payment period in the loan agreement for the making of any payment in whole or in part under such agreement if agreed to by the Secretary. Payments required by the loan agreement, if not made when due, shall accrue interest at a rate specified in the loan agreement;

(3) Full repayment of the loan is to be made over the lesser of 20 years, or a period equal to 90 percent of the expected average useful economic life of the project's major physical assets. In calculating such period the Secretary shall utilize generally accepted accounting principles and practices;

(4) Reasonable assurance of repayment of principal and interest of the loan by the applicant;

(5) Repayment of the loan made will be secured by the essential community development assets and such other collateral that the Secretary determines necessary and appropriate to offer a reasonable assurance of repayment to the Government;

(6) The loan will bear interest at a rate not less than a rate determined by the Secretary, in consultation with the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of one percent but not less than the rate to be charged by the Federal Financing Bank;

(7) The applicant (borrower) agrees to incorporate or cause to be incorporated into all construction contracts under the guaranteed loan provisions prescribed by 41 CFR Part 60 pursuant to Executive Order 11236, September 28, 1965, 30 FR 12319, regarding the promotion and assurance of equal employment opportunity;

(8) Wages and rates to be paid to laborers and merchants employed by contractors or subcontractors in the performance of construction work are not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C., 276a-5);

(9) The borrower agrees to carry out an acceptable plan for small business concerns to participate in the essential community development program to the optimum extent feasible;

(10) The borrower agrees that no person in the United States shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the essential community development program on the ground of race, color, religion, natural origin, sex, handicap or age;

(11) Acceptable provisions for prepayment and acceleration of the loan are included;

(12) Request for disbursement at closing and thereafter shall be supported by such documents as the Secretary may require.

(b) The provisions of paragraphs (a) (1), (2) and (3) of this section shall be altered to the extent affected, by the following circumstance:

(1) The Secretary forgives repayment as set forth in § 796.93 "Cancellation of a direct loan."

(c) Such other terms and conditions as the Secretary deems appropriate to protect the interest of the United States in the case of default.

§ 796.91 Direct loan application processing.

(a) The Secretary, upon receiving authorizations and appropriations for loans for financing essential community development, may consider an application for such a direct loan and other relevant information and then shall:

(1) Determine whether the application is complete and in compliance with all applicable provisions of this regulation;

(2) Determine that the impact assistance available to the applicant as provided in paragraphs (a) (3) and (4) of § 796.71 "Community impact assistance," is inadequate or

unavailable to the applicant to carry out the essential community development;

(3) Determine whether the community development qualifies as essential;

(4) Determine whether the eligible applicant under this subpart of the regulation would be adversely impacted by the construction and operation of a demonstration facility;

(5) Assess and evaluate the financial, environmental, managerial, and legal aspects of the essential community development;

(6) Review the applicant's plans for essential community development to be constructed under the loan. The review shall include, but not be limited to, all costs associated with such facilities;

(7) Determine if there is sufficient evidence that the applicant will initiate and complete the project in a timely, efficient, and acceptable manner;

(8) Determine if the impacts resulting from the demonstration facility have been fully evaluated not only by the applicant for financial assistance for its demonstration facility, but also by the political subdivision or Indian tribe as appropriate;

(9) obtain the Advisory Council on Historic Preservation views and comments upon applications for a direct loan for an essential community development which would affect property listed or eligible for listing in the National Register of Historic Places or which may meet the criteria for listing in the National Register, pursuant to 36 CFR Part 800.

(b) Upon completion of the determinations set forth in paragraph (a) of this section, the Secretary may provide a direct loan to an applicant. In the event an application is rejected, the Secretary will notify such applicant with reasons for the nonapproval of the application.

§ 796.92 Assignment or transfer of a direct loan.

Assignments of a loan and obligations contained thereunder may be made only with the consent of the Secretary.

§ 796.93 Cancellation of a direct loan.

The Secretary may cancel the unpaid balance and any accrued interest on a direct loan for financing essential community development if the Secretary determines: (a) Due to a change of circumstances of the borrower, that the loan repayment will cause an unreasonable hardship to the borrower; or (b) failure of the demonstration facility to operate and to provide the expected tax revenues to the borrower.

§ 796.94 Default on a direct loan.

(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 the Secretary's 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 receipt of the Secretary's demand to make payment in full;

(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 the Secretary's option, to waive such failure, or restructure the repayment required by the loan agreement in any manner the Secretary determines;

(e) Should the borrower fail to pay after demand as provided in paragraph (c) of this section, the Secretary shall undertake collection in accordance with the terms of the loan agreement and the applicable law.

§ 796.95 Cost internalization for essential community development.

(a) A further form of community impact assistance to be used for financing essential community development necessitated by the construction and operation of a demonstration facility is the process of cost internalization. Under cost internalization, the Secretary may:

(1) Require that an applicant obtaining financial assistance for a demonstration facility under this regulation advance funds for management and essential community development to a political subdivision or Indian tribe, as appropriate, in which such facility would be located or which would be impacted by such facility, provided that tax abatement credits are provided by the appropriate political subdivision or Indian tribe over the life of the demonstration facility for such advance payment; or

(2) Require that an applicant obtaining financial assistance for a demonstration facility under this regulation construct the essential community development

necessitated by the construction and operation of the demonstration facility as ancillary facilities of the demonstration facility when the political subdivision or Indian tribe, as appropriate, lacks the capability to finance this essential community development. The costs of this essential community development would be borne by the applicant seeking financial assistance for the demonstration under this regulation and would be included within the cost of the demonstration facility.

(b) Under paragraph (a)(1) of this section, the applicant would be required by the Secretary to include capital costs for essential community development within its demonstration facility costs. The funds provided by this applicant would then be available to the adversely impacted political subdivision or Indian tribe, as appropriate, under terms and conditions prescribed by the Secretary. Payments by the applicant (seeking financial assistance for its demonstration facility) would be treated as advances on local taxes and credits would be provided by the political subdivision or Indian tribe, as appropriate, to the demonstration facility over its useful life in return for such payments. Paragraph (a)(2) of this section is the least favored approach and is to be used only where the lack of community or other public capability to administer the initial provision of essential community development would necessitate direct construction of this essential community development to that of the demonstration facility. Thus, the costs for this essential community development would be included within the costs of the demonstration facility and the applicant seeking financial assistance for its demonstration facility would arrange for construction of the essential community development under the Secretary's direction and with the greatest possible local public participation.

§ 796.96 Principal and interest assistance for a community impact assistance loan guarantee and direct loan.

Principal and interest assistance for community impact assistance loan guarantees and direct loans will be governed by the provisions of § 796.15 "Principal and interest assistance."

§ 796.97 Environmental evaluation of essential community development.

Each application for impact assistance in the form of loan guarantees or loans for financing essential community development is subject to the provisions of NEPA. Normally, the environmental

review required pursuant to NEPA for essential community development will be included in the environmental review for the demonstration facility as required in § 796.10(a) of this regulation. Essential community development not included in the environmental review for the demonstration facility will be the subject of further environmental review under the requirements of NEPA and the DOE implementing NEPA regulations.

§ 796.98 Essential community development monitoring and audit.

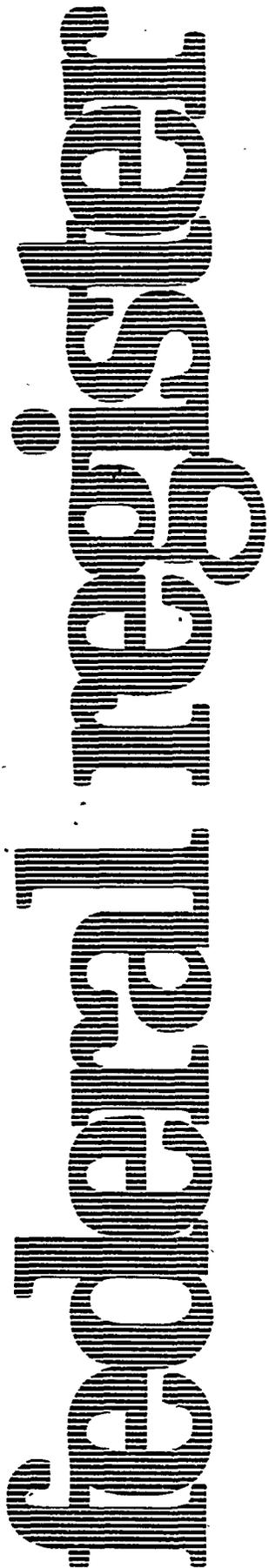
Both the guarantee and the direct loan agreement shall provide that the DOE manager and other applicable DOE representatives shall have access to the essential community development sites at all reasonable times in order to monitor the performance of such development. The borrower or the lender, in the case of a loan guarantee arrangement, will assure the availability of information related to the essential community development as is necessary to permit the Secretary to determine financial soundness, management stability, compliance with environmental protection requirements and other matters pertinent to the guarantee.

§ 796.99 Examination of essential community development records.

The guarantee agreement and the direct loan agreements or related documents shall provide that the lender (in the case of loan guarantee transactions) and the borrower (under both a loan guarantee and direct loan agreements) shall keep such records concerning the essential community development as is necessary to facilitate an effective audit and performance evaluation of such essential community development. The guarantee and the direct loan agreements or related documents shall also provide that the Secretary and the Comptroller General, or their duly authorized representatives, shall have access, for the purpose of audit and examination, to any pertinent books, documents, papers, and records of the borrower and the lender. Such inspection may be made during the regular office hours of the borrower or the lender, or at any other time mutually convenient. At 6-month intervals, the Comptroller General shall make an audit of recipients of financial assistance under this regulation.

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Thursday
June 28, 1979



Part V

**Department of
Health, Education,
and Welfare**

Health Care Financing Administration

Adoption of the National Bureau of
Standards Fire Safety Evaluation System

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Health Care Financing Administration

**Adoption of the National Bureau of
Standards Fire Safety Evaluation
System for Health Care Facilities**

AGENCY: Health Care Financing
Administration (HCFA), (HEW).

ACTION: Notice of comment period.

SUMMARY: The Department of Health, Education, and Welfare is proposing to extend use of the new Fire Safety Evaluation System (FSES) to all hospitals participating in the Medicare and Medicaid programs. We are seeking public comment on this proposal and on whether to apply the FSES to intermediate care and skilled nursing facilities.

The Fire Safety Evaluation System (FSES) was designed by the National Bureau of Standards. It defines the combinations of widely accepted fire safety systems and structural arrangements which can be used by health care facilities to meet safety standards equal to or exceeding those in the Life Safety Code.

The FSES provides a framework which guarantees that the high standards of fire safety necessary to protect patients will be met and which is flexible enough to allow for new advances in safety technology and practice. It is based on our experience, which clearly demonstrates that the Life Safety Code can be implemented more effectively and without waste if certain changes are made in the procedures for achieving these mandated levels of safety.

DATES: Consideration will be given to written comments or suggestions received by August 27, 1979.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, Post Office Box 2372, Washington, D.C. 20013. In commenting, please refer to HSQ-66-N. Organizations and agencies are requested to send comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks from today, in room 5231 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday from 8:30 a.m. to 5:00 p.m. (202-245-0950).

FOR FURTHER INFORMATION CONTACT: Patricia Harfst (202) 472-2950.

Supplementary Information:

What the Current Law and Regulations Require

All hospitals, intermediate care facilities and skilled nursing facilities that seek to participate in the Medicare and Medicaid programs (Titles XVIII and XIX of the Social Security Act) must, as a condition of participation, meet the standards of the Life Safety Code of the National Fire Protection Association. Skilled nursing facilities must meet the standards of the 23rd edition (1973) of this code, pursuant to Section 1861(j)(13) of the Social Security Act. Hospitals and intermediate care facilities must meet the standards of the Code's 21st edition (1967), pursuant to 42 CFR 405.1022(b) and 449.12(a)(5).

The Life Safety Code permits the use of alternate means to meet the level of safety that it specifies. Paragraph 1-3118 of the 1973 Code states: "Nothing in this Code is intended to prevent the use of new methods or new devices, providing sufficient technical data is submitted to the authority having jurisdiction to demonstrate that the new method or device is equivalent in quality, strength, fire resistance, effectiveness, durability, and safety to that prescribed by this Code." Although the Life Safety Code allows "equivalent" solutions, it does not define alternative solutions or provide a mechanism for evaluating equivalence. Additionally, Paragraph 1-6111 of the Code states: "The authority having jurisdiction shall determine the adequacy of the exits and other measures for life safety from fire in accordance with the provisions of the Life Safety Code. In cases of practical difficulty or unnecessary hardship, the authority having jurisdiction may grant exception from this Code, but only when it is clearly evident that reasonable safety is thereby secured."

The National Bureau of Standards Fire Safety Evaluation System for Health Care Facilities

In 1974, at the Department's request, the National Bureau of Standards began developing a system for determining how combinations of widely accepted fire safety systems and arrangements could provide a level of safety equivalent to that required in the Life Safety Code. The National Bureau of Standards completed development of its Fire Safety Evaluation System (FSES) for Health Care Facilities in November, 1978. The Department is using the FSES on a limited test basis at this time.

The system provides a model for evaluating the fire risk in a given building, by weighing Code

requirements and by incorporating additional factors such as mobility of the patients, age of patients, number of patients per staff member, and number of floors in the building. The FSES also provides a technique for evaluating the various construction elements of a building and its fire protection features. This allows comparisons between the actual level of fire safety in the building and the level of fire safety that would be provided simply by conformance with individual Code requirements. Equally important, the technique allows for an evaluation of possible alternative approaches available to upgrade an existing facility to a level of fire safety that meets or exceeds the levels prescribed by the Code. The cost effectiveness of alternate fire safety designs is an integral part of this new system.

We are including a more detailed description of the FSES as an appendix to this notice. The detailed description is taken from the publication: *A System for Fire Safety Evaluation of Health Care Facilities* by H. E. Nelson and A. J. Shibe of the National Bureau of Standards. Copies of the complete publication may be obtained by requesting Publication No. NTIS-PB-292273 at \$7.50 per copy from: The National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151.

Potential Cost-Benefit Impact of the FSES

The Department believes that the FSES has the potential of enabling facilities to meet those safety standards mandated in the Life Safety Code in a sensible manner and without unnecessary cost or waste. The pilot test of the FSES demonstrates that facilities can meet or exceed the levels of safety prescribed by the Code at about half the cost of meeting each specific requirement of the Code. In 1977, staff at the American Hospital Association estimated that at least \$2 billion was necessary for hospitals in this country to meet these requirements. On the basis of preliminary findings, the FSES could save hospitals and hence, the health consumer, \$1 billion while maintaining the same mandated levels of safety.

Current Use and Endorsement of the FSES

The National Bureau of Standards consulted with many groups in developing the FSES, including experts in the regulation and specification of fire safety for health care facilities as well as regulatory officials, architects, code-development officials, State fire

protection chiefs, and accrediting officials. Since its publication in November 1978, the FSES has been adopted for use by the Veterans Administration and accepted as an evaluation method by the Joint Commission on the Accreditation of Hospitals. Units of the American Institute of Architects have endorsed the FSES. The Technical Subcommittee on Health Care Occupancies of the National Fire Protection Association recommended that the FSES be adopted as an appendix to the Life Safety Code.

Request for Comments

We are considering extending the use of the FSES to all hospitals participating in the Medicaid and Medicare programs. We request comments, suggestions, and information on this proposal, as well as on the possible application of the FSES to skilled nursing facilities and intermediate care facilities. We particularly seek comments from medical practitioners and groups representing older Americans and consumers.

On December 6, 1978, we published a notice of proposed rulemaking concerning the possible use of sprinkler systems in nursing homes (43 FR 57166). Comments received on this notice will also be given careful consideration as we study the possible application of the FSES to nursing facilities. (Section 1861(j)(13) of the Social Security Act, 42 USC 1395x. Catalog of Federal Domestic Assistance Program No. 13.713, Medical Assistance Programs, and No. 13.773 Medicare—Hospital Insurance Program.)

Approved: June 21, 1979.

Hale Champion,
Acting Secretary.

APPENDIX—A SYSTEM FOR FIRE SAFETY EVALUATION OF HEALTH CARE FACILITIES

H. E. Nelson and A. J. Shibe

Abstract

A quantitative evaluation system for grading health care facilities in terms of fire safety is described. The system can be used to determine how combinations of widely accepted fire safety equipment and building construction features may provide a level of safety equivalent to that required by the widely accepted Life Safety Code of the National Fire Protection Association. The system will provide flexibility to both the designer of new facilities and to the renovator of existing health care facilities. Three major concepts form the basis for code equivalency:

a. **Occupancy Risk**—the number of people affected by a given fire, the level of fire they are likely to encounter, and their ability to protect themselves.

b. **Building Safety Features**—the ability of the building and its fire protection systems to provide measures of safety commensurate with the risk.

c. **Safety Redundancy**—in-depth protection, through the simultaneous use of alternative safety methodologies such as containment, extinguishment, and people movement methodologies. The design of the complete fire safety system is intended to ensure that the failure of a single protection device or method will not result in a major failure of the entire system.

In this system, equivalency is judged to exist when the total impact of the occupancy risk factors and the compensating building safety features produce a level of safety equal to or greater than that achieved by rigid conformance to the explicit requirements of the NFPA life Safety Code. In this evaluation, safety performance is gauged both in terms of overall safety impact and depth of redundancy.

Key words: Risk analysis; fire safety; safety equivalency; health care facilities; Life Safety Code; smoke detection; automatic sprinklers; building construction; interior finishes; building codes; hospitals; nursing homes; Delphi Method; safety evaluation.

1. Introduction

The ideal goal of life/fire safety design is to prevent all fire deaths, injuries and losses under all imaginable circumstances. Practically, however, society can neither forestall all loss of life nor spend limitlessly to avert loss of life due to fire. Building codes are designed to provide a minimum acceptable level of life safety at a cost society is able and willing to support. The Life Safety Code of the National Fire Protection Association (NFPA No. 101) is a voluntary code widely accepted for setting acceptable fire safety levels. The code provides fixed solutions for life safety in designated occupancies, but allows "equivalent" solutions. However, it does not define alternative solutions nor provide a mechanism for evaluating equivalence.

The Center for Fire research with support from the Department of Health, Education and Welfare has developed a system for determining how combinations of widely accepted fire safety systems and arrangements may provide a level of safety equivalent to that required in the 1973 Life Safety Code. The system provides flexibility to the designer of new facilities and to the renovator of existing health care facilities.

The major concepts forming the basis for code-equivalence are:

a. **Occupancy Risk**—the number of people affected by a given fire, the level of fire they are likely to encounter, and their ability to protect themselves.

b. **Building Safety Features**—the ability of the building and its fire protection systems to provide measures of safety commensurate with the occupancy risk.

c. **Safety Redundancy**—in-depth (redundancy) protection, through the simultaneous provision of alternative safety methodologies such as containment, extinguishment, and people movement methodologies. Each methodology provides at

least its own independent minimum code level of protection. The design of the complete fire safety system is intended to ensure that the failure of a single protection device or method will not result in a major failure of the entire system.

An adequate life safety system must include a building safety system commensurate with the occupancy risk. The fire Safety Evaluation System provides a model for evaluating the fire risk in a building, by incorporating factors such as mobility of people, number of people at risk, height of building, etc. The calculated risk level provides a minimum target for which levels of protection must be provided by the nature of the building design supplemented by appropriate passive and active fire protection devices.

The evaluation system is also a technique for obtaining a quantitative measure of the level of safety provided by a protected building. This level is determined from an evaluation of the various construction elements and fire protection features. The system measures both the gross level of safety and a set of safety subsystems related to containment, extinguishment and people movement. These subsystems are, individually graded to evaluate the depth of redundancy in the building fire safety system. The evaluation system is a mechanism by which the designer can combine a wide variety of fire safety elements into a health care facility plan that provides the level of fire safety required to balance the calculated risk levels.

2. Scope

This evaluation system applies to institutional buildings used for health care purposes involving sleeping facilities for the occupants. In its present form, it was not designed for outpatient clinics or other facilities where all of the occupants are normally awake. The system as presented in this report was also not designed to evaluate penal institutions and has not been proof tested against that type of occupancy.

The system to be described covers all of the aspects of building fire safety currently covered by the Life Safety Code. A few of the items related to built-in utility systems and to operational features and furnishings (fire evacuation plans, fire drills, draperies, etc.) have been excluded from the grading systems. However, these are covered as mandated items in an attachment to the evaluation form. To be considered as having demonstrated equivalent fire safety, it is necessary that the facility satisfy these requirements in addition to the basic fire safety evaluation.

3. Purpose

The purpose of the evaluation system is to provide a technically based mechanism applicable to health care facilities for:

a. **Evaluation of an existing health care facility** to determine how the actual level of fire safety in that facility compares to the level of fire safety that would be provided by explicit conformance to the requirements of the 1973 Life Safety Code.

b. Evaluation of various alternative approaches available to upgrade an existing facility to a level of fire safety that meets or exceeds the level prescribed by the Life Safety Code.

c. Evaluation of a proposed new facility design to determine how its level of fire safety would compare to that required for such a facility by the Life Safety Code. In this aspect the system can also be used as a design instrument to determine various alternatives that can be considered.

d. Evaluation of the cost effectiveness of alternate fire safety designs and methodologies.

e. Quantitative evaluation of the relative degree of protection involved in a facility or a design feature, as compared with that required by the Life Safety Code.

4. Equivalency Concept

The evaluation system provides a method for determining the design features needed to provide equivalence to the 1973 Life Safety Code. Equivalency for the purpose of the system is judged by comparing the total fire safety level prescribed by the Life Safety Code for health care facilities to the actual safety level in a particular design or an actual facility.

The Life Safety Code represents a consensus view by knowledgeable professionals of the minimum standard for fire safety necessary to safeguard the public interest.

Equivalency determination is based on the concept that, while the Life Safety Code does not include a specific statement of the level of safety provided, it is possible by examination of the Code requirements to establish a base line for comparing the level of safety provided by strict conformance to its requirements with the level of safety provided by alternative systems of safeguards. This comparison can be made on the basis of the total safety performance of the building, including all of its safeguards, without making direct comparisons between a specific Code requirement for an element and the corresponding element as it exists in the building. The concept is suitable for use with any of the recent editions of the NFPA Life Safety Codes for 1967, 1970, 1973 and 1978. The following reference sections are quoted from NFPA 101-1973:

"1-3118. Nothing in this Code is intended to prevent the use of new methods or new devices, providing sufficient technical data is submitted to the authority having jurisdiction to demonstrate that the new method or device is equivalent in quality, strength, fire resistance, effectiveness, durability, and safety to that prescribed by this Code."

"1-4113(c). The specific requirements of this Code for existing buildings may be modified by the authority having jurisdiction to allow alternative arrangements that will secure as nearly equivalent safety to life from fire as practical, but in no case shall the modification be less restrictive or afford less safety to life than compliance with the corresponding provisions contained in this Code for existing buildings. (See also 1-3118)."

Similar paragraphs also exist in the 1967, 1970, and 1976 editions of the Life Safety Code.

Evaluation of equivalency of fire safety is through consideration of three separate concepts. The first is occupancy risk, judged primarily on: how many people are susceptible to a single fire exposure (level of risk), what is their capability to safeguard themselves, and what is the nature of the exposure to which they are being subjected. The second is the capacity of the building and its fire protection systems to provide a safe environment commensurate with the risk. The third is the degree of redundant capabilities to insure the preservation of safety in case of the failure of any one safeguard or method.

5. Project Methodology

Development of the fire safety evaluation system consisted of three operations: system design, professional judgment review and critique, and system testing.

a. System Design. This consisted of: (1) analysis of the stated requirements of the 1973 Life Safety Code versus the fire safety function(s) of each requirement, (2) organization of the results of this analysis into a format suitable for obtaining professional judgments of the comparative worth of the fundamental code requirements relative to the Life Safety Code objectives for health care facilities, (3) development of a computer program to evaluate alternative designs and fire protection systems, and (4) iterative incorporation of system changes resulting from the professional judgment review and system tests.

b. Professional Judgment Review. The professional judgment review was made by two different groups: (1) an NBS group, through the mechanism of a "Delphi" exercise (see appendix A for description of the NBS Delphi operation), and (2) an outside review group (see appendix B). The Delphi group (an ad hoc group of qualified fire protection engineers from the Center for Fire Research, NBS) refined the format, established initial values of the safety parameters, and provided judgment values for selecting individual safety parameters in the redundancy evaluations. The outside consulting group consisted of prominent persons in the field of regulation and specification of fire safety requirements in health care facilities. The group provided broad-based technical and judgmental information for improving both the format and the final values assigned to the safety parameters and the redundancy factors.

c. System Testing. The testing involving a series of exercises to determine the validity of the fire safety evaluation system. These exercises included: field tests of actual facilities by NBS personnel; examinations of many evaluation work sheets completed by health care facilities owners and engineering staff, and by code certification and inspection authorities; and, computer analysis of alternative design systems.

6. Systems Description

6.1 Capabilities and Limitations

The system that has evolved from this effort provides a means of mixing recognized and proven fire safety systems and approaches and evaluating these mixes in terms of the overall fire safety performance of a facility. It permits comparative evaluations of the fire risks and fire safety factors actually present in individual facilities or design. Those features that are in excess of minimum safety requirements are given appropriate credit, reflecting the degree of additional safety actually provided. The credit however is limited in its application to the methodological areas where the safeguards provide credible improvements in safety. Conversely, features that increase one or more aspects of fire risk are appropriately charged for their detrimental impact on safety. The result is intended to be an assessment of total safety performance as compared to a minimum code safety level, which provides opportunity for cost reduction, wider choice of design alternatives, and operational flexibility at greater levels than currently available through explicit compliance with the Life Safety Code.

The most important limitations of the evaluation system are:

a. As presently developed the evaluation system applies only to health care facilities of the types covered under Chapter 10 of the 1973 Life Safety Code.

b. The results are expressed in equivalency to the level of safety achieved by the Life Safety Code, and should not be construed as a measure of total or absolute fire safety.

c. The system, like all existing methods for regulating or evaluating fire safety, is only partially supported by technical information or statistics. The professional judgment of experts in a series of balanced peer-consensus groups is used to bridge the technology gaps.

d. In general the evaluation system is limited to evaluating the interrelationships of those fire safety methodologies and approaches that are defined in the Life Safety Code. There is no basis in the system for accommodating completely innovative approaches (such as automatic venting at the point of fire or the use of halogenated gases as a general protection system) for which equivalency with the Life Safety Code cannot be determined.

e. While the parameter measurements of the system cover built-in structural materials and elements, space arrangement, and fire protection systems and devices, the system does not permit alternate approaches to meeting the Life Safety Code requirements for:

(1) *Utilities* such as heating, air conditioning, electrical, and incinerator systems.

(2) *Furnishings* such as draperies, curtains, wastebaskets, and beds.

(3) *Administrative activities* such as emergency plans and fire drills.

When using the evaluation system, the existing requirements in these three areas are applied in the traditional manner of explicit

conformance with the established standards and requirements as described and/or referenced in the Life Safety Code. A form to accomplish this in terms of ten specific requirements is shown in figure 23 e.

6.2 Logic

The logic of the system is that the level of risk imposed upon persons in a facility must be met by a system of safeguards that provide sufficient safety to protect against that risk, using several interacting but separate design approaches.

The evaluation is made on a "Fire/Smoke Zone" basis. This is in recognition of both the history of fires in health care facilities and the traditional arrangements of patient care areas. The evaluation of fire safety is relevant both to the capability of patients surviving fire initiated in such a unit, and to the ability of the unit to exclude the impact of fires external to it. The term "fire/smoke zone" is defined as a space separated from all other spaces by floors, and by horizontal exits or smoke barriers. Where a floor is not subdivided by horizontal exits or smoke barriers, the entire floor is the zone.

The evaluation system applies this logic to each patient use fire/smoke zone through the following steps.

- a. Measure Risk.
- b. Measure overall (General) level of safety.
- c. Measure depth (redundancy) of safeguards in terms of:
 - (1) Fire Containment capabilities.
 - (2) Extinguishment, suppression, and control capabilities.
 - (3) People Movement and other occupant protective features.
- d. Determine equivalency to the prescribed requirements of the Life Safety Code. Equivalency occurs when the values as measured by this system are such that:
 - (1) The General safety level equals or exceeds the occupancy Risk level, and
 - (2) The Containment, Extinguishment and People Movement safety levels each independently equals or exceeds the minimum value corresponding to the level of that category required by the Life Safety Code.

6.3 Risk

In establishing a system for evaluating risk, it is recognized that there is a basic level of fire risk inherent in every health care facility. It is also recognized that the amount of furniture, equipment, and supplies (plus the arrangement of these within the space available) depends on the occupant and is not quantified in the safety equivalency measurement. The evaluation system base line for occupancy risk rests on the assumption that the furniture*, equipment, and supplies will be combustible, most adversely located from a fire-safety standpoint, and typical of those normally found in health care facilities.

The factors used to judge the variations in fire risk are given in figure 1. They are applied to individual fire/smoke zones and cover the following risk controlling

parameters: the number of patients in the zone, their degree of mobility, their average age, the ratio of patients to attendants, and the height of the zone above street level. These five specific occupancy risk parameters were initially chosen based on the experience and judgment of selected members of the staff of the Fire Safety Engineering Division, Center for Fire Research, and because they are considered to represent the occupancy variables that control the risk in health care facilities. The assessment of the specific parameters and the determination of their relative importance was also based on judgment plus the exercising of the system on test cases to reveal inconsistencies or deviations from accepted safety practice.

The Occupancy Risk Factor for any health care building is the product of five individual risk parameters factors based on the risk factor values shown in figure 1.

The minimum risk conditions have been defined as: a zone containing fewer than five patients, all of whom are of sufficient health to be considered fully mobile and capable of evacuating themselves, their average age being less than 65 and over one; a ratio of patients to attendants of 2:1 or less; and the zone located on the first floor of the building. This condition is assigned an occupancy risk factor of 1.1.

In contrast, the conditions evaluated as representing the upper range of risk as contemplated by the Life Safety Code are based on: more than 30 patients in the zone, all of whom are unable to move without assistance; their average age is over 65 or under one; a ratio of patients to attendants of 10:1 or more; and the zone located above the sixth floor or in the basement. This was assigned an occupancy risk factor of 18. Greater risk values are assigned to patients who cannot be moved and to fire zones which are unstaffed. The maximum possible risk has a factor of 69.

The risk factors were chosen and weighted in descending order of maximum impact as follows:

- a. Patient Mobility. The single most important factor controlling risk in a health care facility is the degree to which patients must be assisted in taking actions necessary for their safety. The level of capability in health care facilities will vary from patients who, if informed or directed, will be able to take positive self-protecting actions to those patients who cannot be moved or cannot take the simplest actions to safeguard themselves. In the measurement of occupancy risk factors the least mobile category of patient expected in the zone determines the risk factor for that zone. The rationale for this approach is that if a zone accepts any patient with a reduced mobility status, at any time it may increase the number of those patients. For patients who cannot be moved because of extreme danger of death or serious harm, this condition is considered to be a major risk and a very high risk factor (4.5) is imposed. With this high risk factor, the system requires inclusion of fire safeguards which exceed the normal minimum requirements of the Life Safety Code sufficient to compensate for total lack of movability. This is one of two

situations where it is possible for a building, which explicitly complies with the Life Safety Code, to fail to meet the minimum requirements as determined by the evaluation system.

- b. Patient Density. The risk factor for occupant density (number of patients within the zone) takes into account both the inherent increase in the maximum fire death potential that occurs as the number of patients in a zone increases, and the problems involved in handling larger numbers of patients during an emergency.

- c. Fire/Smoke Zone Location. This risk factor relates to fire department accessibility to the fire. The rating system recognizes the inherent advantage of a first floor zone. It also recognizes the problems of evacuation from higher floors and the virtual impossibility of using external fire fighting efforts above the sixth floor in any building. The risk factor value for zones in basements is the same as for zones at or above the seventh floor.

- d. Ratio of Patients to Attendants. This risk factor recognizes the importance to patient safety of attendants immediately available to respond in an emergency. The emergency actions that may be undertaken by the staff include detection, alarm, fire extinguishment, confinement of the fire, establishing barriers between the patients and the fire (e.g. closing patient room doors), rescue, emergency medical aid, and other related functions. A few of these functions, such as detection and alarm, may not be critically related to the ratio of attendants to patients while those functions related to rescue and the closing of patients room doors have a strong relationship to the staffing ratio. The staffing ratio considered is based on the minimum staffing level that would be immediately available (normally night hours). In establishing the risk charges, the charge considered equivalent to the most severe case contemplated under the Life Safety Code was assumed at a patient/attendant ratio of 11 or more, but where there was at least one attendant constantly in or immediately adjacent to and in full observation of the zone. The Life Safety Code is actually silent on this matter and could even be interpreted to permit a situation where there were no attendants in or adjacent to the zone. Such a condition was considered to be a major fire risk and a high risk factor (4.0) is imposed in a situation where patients are left without immediate nursing staff assistance. With this high risk factor, the system requires inclusion of sufficient fire safeguards to reasonably compensate for the lack of human supervision. This is a second situation in which it is possible for a building with fire protection devices to explicitly comply with the Life Safety Code, but to fail to meet the minimum requirements as determined by the evaluation system.

- e. Patient Average Age. This risk factor recognizes the increased susceptibility of the elderly and infants up to one year of age to physical harm by smoke particles, gaseous combustion products and heated air. The rating assigns a larger risk factor (1.2) to fire zones occupied by a population whose mode

* Facility furniture could be expected to vary ad hoc so they cannot be considered as known in a system analysis.

is above 65 or below one year. Basically, imposition of this charge will provide additional safety protection in nursing homes for the aged and nurseries.

6.4 Safety Parameters

The general safety factors are measures of those building and fire protection features that bear upon the safety of patients (and other occupants) who may be in the particular fire/smoke zone at the time of a fire.

The safety parameters were selected by examining the specific code element requirements for health care facilities, Chapters 10 and 17 of the 1973 Life Safety Code, and by evaluating the impact of various elements of the Code. The selected safety parameters were modified first by the NBS Delphi panel and later by the consultant groups. The selected safety parameters are shown in figure 2. (See appendix C for an accounting of the inclusion of code elements in the evaluation system.)

Each of the safety parameters was analyzed. Where the current Code requirements recognize several different levels of a parameter (e.g. the Life Safety Code recognizes eight different types of construction), the most important alternatives were listed. In addition, conditions likely to be encountered in situations failing to meet the explicit Code requirements, and conditions exceeding those required by the Code but available for increased protection, were also listed. Figure 3 shows the final "matrix" form of the breakdown of the 13 selected safety parameters, each having three to seven subdivisions.

The safety parameters are designed to constitute a complete assembly of all of the basic building factors determining the level of safety in a health care facility for which equivalency could be expressed. In addition, we collected and attached to the inspection form an additional series of items required by the Life Safety Code but outside the scope of the equivalency covered by the listed safety parameters. These relate primarily to building utilities, operational features and furnishings and they are listed in part e of figure 23.

6.5 Safety Parameter Valuation

In order to provide a method of bringing the best available consensus judgment and experience together to judge the relative impact on general safety of each of the parameters in each of the potential conditions listed, a Delphi type peer group was established. This peer group consisted of members of the Fire Safety Engineering Division, Center for Fire Research, NBS, with the greatest background and experience in the application of fire protection engineering principles and practices to buildings. The membership and basis for the Delphi approach are covered in appendix A.

Each member of the group was provided with copies of the initial matrix similar to the one shown in figure 3, but without numerical parameter values. Each person then evaluated the relative importance of each item in the entire matrix of parameters without consultation with other members of the group. The members of the Delphi group

were advised that the risk being considered covered new and existing health care facilities and that the objective was a system to measure equivalency with the 1973 Life Safety Code. The value judgments made by this group are, therefore, considered to be based on the character and needs of patients in health care facilities and the current approach to these embodied in the Life Safety Code. In addition, each member of the group evaluated separately the same matrix in relation to the redundant subsystems which are discussed in section 7.7. In executing the matrix each peer group member was requested to assign a value of +10 to that safety parameter element (or level) considered to be the single most important to safety to life and to compare all other elements in the matrix to that base. A zero value represented a neutral condition; i.e. a safety parameter at this level would not increase or decrease the safety conditions of a fire zone. Negative values represented deficiencies; i.e. safety parameters at this level decreased the safety conditions of a fire/smoke zone.

After an initial analysis of the results, the peer group was asked to meet in conference on several occasions. The peer group on those occasions deviated from the traditional Delphi approach but instead reviewed differences and concepts, with a view to achieving consensus agreement on categories and on selection of the numerical values.

Several categories were modified and qualified. A significant adjustment was to shift the numbers so that a base line would be established in which negative charges would not be made against any general safety parameter that was in explicit conformity with the requirements of the 1973 Life Safety Code.

6.6 Relating Safety Parameter Values to Life Safety Code Requirements

The relationship between the safety parameter values and the code requirements was established by summing the value of all of the credits and deficits of the safety parameter elements for a health care facility that exactly met all of the requirements prescribed by the 1973 Life Safety Code. Attempts to do this disclosed that the Life Safety Code actually had eleven sets of requirements, seven for sprinklered facilities and four non-sprinklered facilities (see figures 4 through 18). Based on the relative value of protection methodologies developed by the Delphi group and refined by the review processes described later in this report, the levels of safety prescribed by these requirements are:

	General safety value required	
	Nonsprinklered buildings	Sprinklered buildings
1. New buildings 1-story in height.....	13	16
2. New buildings over 1-story in height.....	18	*23
3. Existing buildings 1-story in height.....	5	8

General safety value required

	General safety value required	
	Nonsprinklered buildings	Sprinklered buildings
4. Existing buildings over 1-story in height.....	9	*16

*20 for 2- or 3-story buildings.
 *14 for 3-story and 10 for 2-story buildings.

These values represent the level of general safety required by the 1973 Life Safety Code to house health care occupants in the class and height of building indicated. The analysis demonstrates that, in terms of the values in the evaluation system, the Life Safety Code minimum requirements are those for non-sprinklered buildings. The highest total value developed for a non-sprinklered building is 18. The importance of this value is that it was used as the approximate base line for the establishment of measurement of risk in a multi-story building and is the principal balance point for comparing occupancy risk with general safety. Thirteen is the comparable value for a single story building.

The values for existing buildings demonstrate the reduced level of general safety accepted by the Life Safety Code for these buildings. For a one-story building the general safety value is +13 for a new building and +5 for an existing building, indicating that for an existing one-story building only 38% of the score expected a new one-story building is required. Similarly, the ratio of existing multi-story buildings to that for new multi-story buildings is 1/2. The 0.5 factor in table 3B of the Fire/Smoke Zone Evaluation Work Sheet reflects this ratio.

6.7 Redundant Safety Subsystems

A basic principal of the Life Safety Code is that there will be a redundancy of protection so that the failure of a single protection device or method will not result in a major failure of the entire safety system. In addition, the development of a redundant approach, as used in this safety evaluation system, avoids the pitfall of traditional approaches to developing grading systems where all of the elements are considered mutually exclusive of each other and a single total score determines acceptability. Under such a system, it is possible to completely disguise the absence of a critical element. The evaluation system establishes redundancy on the basis of in-depth coverage of the principal fire safety methodologies. The redundant methodologies used in the system are those related to fire safety through containment, through extinguishment and through people movement (including refuge).

The redundant methodologies were chosen after examination of decision tree approaches [1,2].¹ These divide fire protection by element. Four different methodologies of managing fire impact were identified. These are control of the fuel and arrangement; compartmentation and other mechanisms of containment of the fire and its impact; extinguishment suppression and other means of terminating fire development; and the provision of safe locations of refuge either by

¹Numbers in brackets refer to the references at the end of the paper.

evacuation or by establishment of safe areas of refuge. Those elements related to the control of fuel and its arrangement are incorporated into the risk analysis portion, in terms of the occupancy risk base line. Therefore, only three redundant methodologies were used in the analysis.

As part of the initial Delphi exercise, each member of the Delphi group completed a matrix establishing his judgment on the relative importance of the items in the general safety parameter matrix; he also made additional judgments on the same matrix elements related to the separate fire safety methodologies of containment, extinguishment, and people movement. These were then processed and analyzed and reviewed in subsequent conference meetings of the Delphi group. By this process, the parameters that have a significant impact on each of the redundant methodologies were identified. Many of the parameters impact on more than one of the methodologies. In the judgment of the group only sprinkler protection impacts on all three. Figure 19 shows the breakdown in terms of which parameters apply to which methodologies.

Each of these subsystems was then evaluated to determine the point value that would result from explicit compliance with the requirements of the Life Safety Code for that subsystem. Because of the variance between new and existing buildings and between single story and multi-story-type buildings, four values were determined for each of the redundant safety methodologies. Figures 20, 21, and 22 demonstrate how these values were established.

In this fire safety evaluation system these values are mandatory minimum values that must be met regardless of the overall evaluated level of occupancy risk or the overall evaluated level of general safety.

6.8 Overall Safety Evaluation of a Fire/Smoke Zone

This evaluation system determines the efficacy of any arrangement of the listed fire safety subsystem elements in a fire/smoke zone by considering the risk factors and safety parameters relative to the level of safety that would be achieved by explicit conformance with the specific requirement of the Life Safety Code (NFPA 101-1973). In order to be determined as equivalent the measurement must demonstrate that: —

1. The general safety level produces a value that equals or exceeds the determined value or charge for risk.
2. Each of the three individual redundancy groupings (containment safety; extinguishment safety; and people movement safety) must have an arrangement of safeguards that meet the prescribed minimum for that redundant grouping independent of the other condition.

7. Fire/Smoke Zone Evaluation Work Sheet for Health Care Facilities

All of the parameters, variables and formulas for determining the facility safety equivalency with the Life Safety Code are contained in a self-instruction form. A separate manual (appendix D) has been

prepared to assist in completion of the evaluation form. The manual provides expanded discussions and definitions of various items in the evaluation sheet to assist the surveyor or reviewer when questions of definitions, interpretations, or meanings arise. To evaluate totally a health care facility, it is necessary to evaluate each of the different fire/smoke zones. A zone is any space which is separated from all other spaces by floors, horizontal exits, or smoke barriers. Where a floor is not subdivided by smoke barriers, the entire floor is the zone. See figure 23 for an example of the form and appendix E for examples of a completed form.

8. Computer Analysis

The evaluation system has a theoretical capability of evaluating about 230 million combinations of the 13 safety parameters and variations. Practical arrangements in existing buildings and future design are of the order of a few thousand. For the purpose of verifying the original proposed system as well as to analyze potential proposed changes, a computer program was developed. The program generates all arrangements that are valid, based on data given for the safety parameters. Using the Fire Safety Evaluation Work Sheet an experienced engineer or facility can manually analyze 10 to 15 differently organized zones, and establish the most suitable configuration for the facility. By using the computer program the evaluator is able to review all possible solutions to his problem, and he can also be assured that answers are not biased by individual preference. The printouts of the zone arrangements can be easily analyzed by an experienced individual to establish equivalency of solutions. Appendix F provides additional detail on this program.

9. Evaluation System Analysis

An effort has been made to make the system consistent with accepted and sound fire protection engineering practice and theory. While the most advanced scientific knowledge has been used in developing the system, the state-of-the-art requires that the insight and professional judgment of experts in the field serve as the base for information in developing the system, and the available technical knowledge (including results of fire tests, statistical analyses, fire investigations, etc.) serves a supportive role. In the development of the fire safety evaluation system, therefore, both the NBS Delphi group and the professional consulting panel described in sections 9.1 and 9.2 below were selected on the basis of expertise and interest.

In the systems proofing effort the capacity of these panels was broadened by using a two-step judgment approach. In the first step the relative worth of each parameter was individually judged on its relationship to other parameters. This evaluation was made in terms of each parameter's contribution to both general safety and to each of the redundant safety requirements. In the second phase the parameter values, developed in the preceding phase, were applied to a large number of test cases, scenarios and reviews

of specific facilities. The resulting fire safety system configurations were then judged on overall equivalency to configurations prescribed by the 1973 Life Safety Code. This process provided a balance and cross check between judgments of the value of the individual parameters and evaluations of the overall product.

9.1 NBS Delphi Group

The initial safety parameter values (figure 3) were established by the NBS Delphi group. The group was composed of qualified fire protection engineers in the Fire Safety Engineering Division (see figure 24). The group was also used at different development stages to clarify technical problems and to analyze proposed changes suggested by the outside consultants, HEW or others.

Delphi is a procedure for obtaining the most reliable consensus of opinion of a group recognized as experts on a technical question for which no "true" answer is within the state of current knowledge [3]. The essence of the process is that the question is considered independently by members of the group. The response is tabulated and circulated to group members who revise their "answers" on the basis of further thought and consideration of the aggregate response. Additional rounds of response involving direct contact and discussion among the group members can ensue. The number of interactions is usually limited to four. In its classic form Delphi incorporates various statistical measures of the "convergence" to consensus, which are circulated within the group along with the responses. The Delphi exercise at NBS was in a form known as Policy Delphi. In this variant the statistical measures to establish convergence consensus are foregone and the "referee" or manager of the process takes a fairly active role in the discussion among the group members. In any of its formats, Delphi is widely perceived as furnishing useful information in areas in which questions are difficult to pose precisely, let alone answer definitely. A more detailed discussion of the Delphi operation is given in appendix A.

9.2 Consultant Group

After the NBS Delphi group agreed on an initial set of parameters and their values, the system was presented to the consultant group.

The group consisted of prominent persons in the regulation or specification of fire safety for health care facilities. It included regulatory officials, code writing officials, government agency fire protection chiefs, and accrediting officials representing a cross section of the applied field. The membership and dates of meetings are shown in appendix B. This consultant group contributed to the development of the system and met in four separate sessions. In those meetings the consultants operated as a committee of the whole, reviewing the concept and individually discussing and evaluating the parameter values as developed by the NBS peer group. Important revisions resulted. Many of these revisions were in the form of restraints placed on the degree of liberality in the safety parameter values so as to require a more conservative and supportable approach.

9.3 Inter-Group Relationships

Throughout the project the project staff maintained liaison and a flow through the described review groups and a recently established task group of the National Fire Protection Association Committee on Safety to Life. This task group is studying the evaluation system for possible inclusion in the NFPA Life Safety Code. Figure 24 outlines this flow.

10. Summary

The conclusions resulting from this study are briefly stated as follows:

a. A methodology has been developed and described for generating equivalency to a specified set of occupancy safety requirements. It is based on the understanding of level of occupancy risk, building safety and redundancy of safeguards. This methodology can provide the necessary flexibility for a designer to achieve minimum cost solutions for a specified level of safety.

b. The described methodology "System for Fire Safety Evaluation of Health Care Facilities," is a specific example of an equivalency approach. The system provides equivalency to the minimum life requirements for the health care facility as prescribed by Life Safety Code 101-1973. The system can be updated for later Life Safety Code editions for health care facilities.

c. Other equivalency systems can be developed for other occupancies but this will require detailed analysis of the risk level, the variety of building safety requirements, the necessary redundancy equations, and other aspects of the specific occupancy involved.

11. References

[1] National Fire Protection Association, "Decision Tree," NFPA, Boston, 1974.

[2] Watts, J., "The Goal Oriented Systems Approach," NBS-GCR-77-103, National Bureau of Standards, Washington, D.C., July 12, 1977.

[3] Dalley, N. and Helmer, D., "An Experimental Application of the Delphi Method to the Use of Experts," Management Science 9, No. 3, p. 458 (April 1963).

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Thursday
June 28, 1979

REGISTRATION

Part VI

**Department of
Housing and Urban
Development**

**Federal Housing Commissioner—Assistant
Secretary for Housing**

**Tax Exemption of Obligations of Public
Housing Agencies and Related
Amendments**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Federal Housing Commissioner—
Assistant Secretary for Housing**

[24 CFR Part 811]

[Docket No. R-79-673]

**Tax Exemption of Obligations of Public
Housing Agencies and Related
Amendments**

AGENCY: Department of Housing and
Urban Development.

ACTION: Proposed rule.

SUMMARY: Subpart B, Use of Federally Guaranteed Mortgage-backed Securities in Connection with Tax-exempt Obligations, is proposed to be added to part 811. The new Subpart B will permit the combination of tax-exempt obligations with the full faith and credit guarantee of the United States provided by GNMA mortgage-backed securities in the financing of FHA-insured, Section 8 assisted, multifamily housing. Methods of processing and standards with respect to interest rates, fees and charges are established to assure that the reduction in interest benefits the housing project and reduces the amount of required Section 8 subsidy.

COMMENTS DUE: August 27, 1979.

ADDRESSES: Submit written comments on or before the due date to the Rules Docket Clerk, Office of the General Counsel, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Thomas White, Acting Director, Office of State Agency and Bond Financed Programs, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-5945 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Subpart B is restricted to the use of tax-exempt obligations in combination with GNMA mortgage-backed securities that are backed by an FHA-insured mortgage on a Section 8 assisted multifamily housing project. Since the GNMA guarantee is backed by the full faith and credit of the United States, the combination provides a high degree of security to investors with exemption from federal taxation on interest income. The interest rates should reflect these advantages and the consequent savings will result in reduced subsidy costs in the form of lower Section 8 contract rents.

(1) To assure that the various financing alternatives are subject to the same requirements, the Proposed Rule

applies whether the source of tax-exemption is Section 11(b), Section 103(d) of the Internal Revenue Code of 1954, the Federal Relations Act for Puerto Rico or other statute. Subpart B also requires each project to be separately financed with the principal amount of tax-exempt obligations equal to the amount of the FHA-insured mortgage.

(2) Since GNMA-guaranteed construction loan certificates can be used for construction financing and can be converted to GNMA/guaranteed permanent loan certificates, only a single issuance of tax-exempt obligations for both construction and permanent financing is permitted. This will minimize the loss of Federal tax revenue by prohibiting the exemption of both permanent and interim obligations that is permitted under Subpart A during the construction period.

(3) No debt service reserve is permitted since the obligations are backed by GNMA mortgage-backed securities and therefore the full faith and credit of the United States. A Treasury account is to be maintained by the trustee for the deposit of investment income and funds in this account are to be paid to the Department of the Treasury.

(4) We have imposed a restriction in Section 811.201(d) so that projects already being processed under outstanding regulations cannot switch to tax-exempt financing using mortgage-backed securities except with specific approval from the Assistant Secretary for Housing.

(5) Obligations are to be issued under competitive bidding procedures prior to initial endorsement. The interest rate on the FHA-insured note will be the interest rate on the obligations plus the GNMA servicing fee (currently one-fourth of one percent) and the obligation servicing fee. No other spread between the financing agency's rates of borrowing and lending will be permitted.

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

Accordingly, it is proposed to amend Part 811 as follows:

Subpart B is added to Part 811 to read as follows:

**PART 811—TAX-EXEMPTION OF
OBLIGATIONS OF PUBLIC HOUSING
AGENCIES AND RELATED
AMENDMENTS**

**Subpart B—Use of Federally Guaranteed
Mortgage-backed Securities in Connection
with Tax-Exempt Obligations**

Sec.

811.201	General.
811.202	Definitions.
811.203	Approval of financing agency.
811.204	Financing documents and data.
811.205	Interest rate.
811.206	Field office processing.
811.207	Issuance of obligations and escrow.
811.208	Trust indenture provisions.
811.209	Approval of obligations tax-exempt Pursuant to Section 11(b).
811.210	Applicability and approval where tax exemption is not pursuant to Section 11(b).

Authority: Section 7(d), Department of HUD Act (42 U.S.C. 353(d)); secs. 3(o), 5(b), 8, 11(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, and 1437i).

**Subpart B—Use of Federally Guaranteed
Mortgage-Backed Securities in Connection
with Tax-exempt Obligations**

§ 811.201 General.

(a) The purpose of this Subpart B is to provide a basis for combining GNMA mortgage-backed securities with tax-exempt obligations in financing the development of Section 8 assisted multifamily rental projects where the mortgagee is eligible for GNMA programs under 24 CFR Part 390, Subpart A.

(1) The obligations must be issued in connection with a low-income housing project approved by HUD under the applicable Section 8 regulations (24 CFR Parts 880, 881 or 883).

(i) Except as needed for a resident manager or similar requirement, all dwelling units in the project must be Section 8 contract units.

(ii) The project may include necessary appurtenances, including commercial space to the extent permitted under the applicable mortgage insurance program, but not to exceed 10% of the total of the total net rentable area.

(2) The project mortgage must be insured under the National Housing Act and the mortgage and mortgagee must be eligible under GNMA regulations, 24 CFR Part 390, Subpart A.

(b) Mortgage-backed securities are combined with tax-exempt obligations as follows. The mortgagor executes an FHA-insured mortgage note; the mortgagee issues GNMA mortgage-backed securities backed by the FHA insured mortgage; and these mortgage-backed securities are purchased by a trustee using the proceeds of tax-exempt

obligations issued by a financing agency. The interest rate on the FHA-insured mortgage note reflects the tax-exempt interest rate on the obligations.

(c) Section 11(b) of the Act provides that: "Except as provided in section 5(g), obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States." This Subpart B provides for approval by HUD of tax exemption pursuant to Section 11(b) where mortgage-backed securities are combined with such tax exemption. Section 811.210 states the applicability of this Subpart B where Federal tax exemption is provided under other statutes.

(d) If the preliminary proposal approved by HUD for a project does not include a request for financing under this Subpart B, conversion of tax-exempt financing under this Subpart B shall require the prior authorization of the Assistant Secretary for Housing.

(e) Issuance of obligations pursuant to this Subpart B to refund outstanding permanent obligations issued pursuant to this Subpart B or Subpart A is prohibited.

§ 811.202 Definitions.

(a) *Act*. The United States Housing Act of 1937 (42 U.S.C. 1437, et seq.)

(b) *Agreement*. An Agreement to enter into Housing Assistance Payments Contract as defined in the applicable Section 8 regulations. The form of agreement shall be amended in accordance with this Subpart B.

(c) *Annual Contributions Contract (ACC)*. An Annual Contributions Contract as defined in the applicable Section 8 regulations. The form of ACC shall be amended in accordance with this Subpart B.

(d) *Applicable Section 8 Regulations*. The provisions of 24 CFR Parts 881, 881 or 883 that apply to the project.

(e) *Commitment to Purchase MBS*. The agreement between the MBS-issuer and the trustee committing the trustee to purchase the mortgage-backed securities at a stated maximum interest rate.

(f) *Contract*. A Housing Assistance Payment Contract as defined in the applicable Section 8 regulations. The form of contract shall be amended in accordance with this Subpart B.

(g) *Cost of Issuance*. Ordinary, necessary and reasonable costs in

connection with the issuance of obligations. These costs shall include the GNMA commitment fees, financing fees, initial trustee fees, counsel fees, underwriter fees and other fees or expenses approved by HUD.

(h) *Financing Agency*. The issuer of the tax-exempt obligations. (1) The PHA approved under Section 811.104 or 811.105, as modified by Section 811.203(a), that issues the Section 11(b) tax-exempt obligations for financing of the project. (2) An issuer of obligations that are tax-exempt under Section 103 of the Internal Revenue Code of 1954, the Federal Relations Act for Puerto Rico or other statute providing for exemption from federal taxation, shall be approved under Section 811.203(b).

(i) *GNMA*. The Government National Mortgage Association.

(j) *GNMA Servicing Fee*. The annual servicing expenses allowed by GNMA for the MBS-issuer (including the GNMA guarantee fee).

(k) *HUD*. The Department of Housing and Urban Development.

(l) *Low-Income Housing Project*. Housing for families and persons of lower income developed, acquired or assisted under Section 8 of the Act and the improvement of any such housing.

(m) *MBS-issuer*. The mortgagee that issues the mortgage-backed securities.

(n) *Mortgage-backed Security (MBS)*. Securities guaranteed as to principal and interest by GNMA pursuant to 24 CFR Part 390, Subpart A.

(o) *Obligations*. Tax-exempt bonds, notes or other evidence of indebtedness that are issued to provide financing of a low-income housing project.

(p) *Owner*. An owner as defined in the applicable Section 8 regulations.

(q) *Obligation Servicing Fee*. The annual costs of servicing the obligations, including trustee fees, financing agency expenses and other costs of servicing the obligations.

(r) *Treasury Account*. An account maintained by the trustee under the trust indenture to which investment income from other reserves, accounts or escrows or other excess funds are to be transferred at two year intervals. All funds in the Treasury Account are to be immediately paid to the Department of the Treasury.

(s) *Trust Indenture*. A contract setting forth the rights and obligations of the issuer, bondholders and trustee in connection with the tax-exempt obligations.

(t) *Trustee*. The entity that has legal responsibility under the trust indenture for disposition of the proceeds of an issuance and servicing of the debt represented by the obligations. The

trustee must be a bank or other financial institution that is legally qualified and experienced in performing fiduciary responsibilities with respect to the care and investment of funds of a magnitude comparable to those involved in the financing.

§ 811.203 Approval of financing agency.

(a) Where the obligations are issued pursuant to Section 11(b) of the Act, the financing agency must be approved as a PHA under § 811.104 or § 811.105 of Subpart A.

(1) Section 811.104(b) and 811.105(b), for financing approved under this Subpart B, shall be amended with regard to compensation and expenses to provide as follows:

(i) The PHA shall receive no compensation in connection with the financing of the project, except for its expenses as approved by HUD.

(ii) Should the PHA receive any compensation in excess of its expenses, the excess is to be placed in the Treasury Account.

(2) The requirement of an audit in Sections 811.104(c) and 811.105(c)(4) shall not be applicable where the trust indenture provides that no funds are to go to the financing agency except for actual expenses approved by the trustee and paid out of the obligation servicing fee.

(b) Where the obligations are issued pursuant to Section 103(d) of the Internal Revenue Code of 1954, the Federal Relations Act for Puerto Rico or other statute providing for exemption from Federal taxation, the financing agency shall submit to HUD satisfactory evidence, including an opinion of bond counsel, that the financing agency has met all eligibility requirements under the applicable statute. The financing agency shall receive no compensation in connection with the financing of the project, except for its expenses as approved by HUD. Should the financing agency receive any compensation in excess of its expenses, the excess is to be placed in the Treasury Account.

§ 811.204 Financing documents and data.

(a) A financing agency proposing to issue obligations shall submit the following documents:

(1) Copies of the documents relating to the method of financing of the project (supplementing the documents required for Section 8 and FHA). Such documents shall include the commitment to purchase MBS, the bond resolution, pledge, bond, note, trust indenture and other related documents, if any, all of which shall be in compliance with all

requirements of this Subpart B and applicable Section 8 regulations.

(2) An explanation of all reserves, accounts or escrows to be established or maintained by the trustee, the method of funding and flow of funds. The explanation should be in sufficient detail to facilitate field office review.

(3) An opinion from counsel for the financing agency as to the legality of all documents relating to the method of financing the project. Where this opinion relies on other legal opinions, copies of these opinions shall be included.

(4) In addition to the financial data required for FHA insurance, an itemized statement of the cost of issuance and of the obligation servicing fee.

(b) The counsel for the financing agency shall, prior to the issuance of the obligations, furnish to HUD a certification that any official statement or prospectus or other disclosure statement prepared in connection with the issuance of the tax-exempt obligations (not including the standard form of GNMA prospectus) includes on the first page the following statements:

"(A) In addition to any other security cited in the statement, the obligations are to be secured by a pledge of an Annual Contributions Contract, if applicable, an Agreement to enter into Housing Assistance Payments Contract and a Housing Assistance Payments Contract, all to be executed or approved by the United States Department of Housing and Urban Development (HUD);

"(B) The faith of the United States is solemnly pledged to the payment of annual contributions pursuant to the Annual Contributions Contract or to the payment of housing assistance pursuant to the Housing Assistance Payments Contract, and funds have been obligated by HUD for such payments;

"(C) The obligations are to be used in connection with mortgage-backed securities which are guaranteed as to timely payments of principal and interest by the Government National Mortgage Association and this guarantee is backed by the full faith and credit of the United States;

"(D) Except as provided in the contract of mortgage insurance, the obligations are not FHA-insured;

"(E) The obligations are not to be construed as a debt or indebtedness of HUD or of the United States, and payment of the obligations is not guaranteed by the United States;

"(F) Nothing in the text of this disclosure statement is to be interpreted to conflict with (A), (B), (C), (D) and (E) above; and

"(G) HUD has not reviewed or approved, and bears no responsibility for, the content of this disclosure statement."

(c) The financing agency shall retain in its files the documentation relating to the financing. A copy of this documentation shall be furnished to HUD upon request.

(d) Where a financing agency after obtaining HUD approval of the documents submitted pursuant to this Subpart B proposes substantive changes in the documents, whether by way of amendment, replacement or supplementation, such changes must be approved by HUD before becoming effective.

§ 811.205 Interest rate.

(a) The interest rate on the obligations shall be less than the 20 Bond Index published by the Daily Bond Buyer for the week immediately preceding the sale of the obligations by at least the number of basis points set quarterly or more frequently by the Assistant Secretary for Housing.

(b) The financing agency shall issue obligations for public sale under competitive bidding procedures involving the solicitation of sealed bids. Bids shall be solicited through an advertisement which shall include advertisement in a newspaper of national circulation, such as the Daily Bond Buyer. The interest rate on the low bid received under this procedure may be approved by the field office, provided that at least three responsive bids are received and the interest rate is within the ceiling set by the Assistant Secretary for Housing.

§ 811.206 Field office processing.

(a) The amount of the obligations shall not exceed the amount of the FHA-insured mortgage. The maximum cost of issuance that may be included in the mortgage shall not exceed the percentage of the mortgage amount otherwise available for the financing fee and the FNMA/GNMA fee. All individual items of the cost of issuance shall be shown to be necessary for the issuance of the obligations and the amount of each shall be shown to be reasonable in relation to prevailing costs of issuing comparable obligations, taking into account any differences between the types of obligations.

(b) FHA processing shall be based on a debt service constant which shall make provision for the rate at which the obligations are expected to be issued, not to exceed the ceiling set by Section 811.205(a), the GNMA servicing fee, the

obligation servicing fee, and the mortgage insurance premium.

(1) An amount not to exceed one-tenth of 1 percent of the obligations may be allowed for the obligation servicing fee. All individual items of the fee shall be shown to be necessary for the servicing of the obligations and shown to be reasonable in relation to the cost of servicing similar obligations.

(c) At initial endorsement the interest rate on the FHA-insured note shall be set at the actual interest rate on the obligations, plus the GNMA servicing fee and the obligation servicing fee. Contract rents shall be reduced to the level justified by the required debt service.

(d) The term of the obligations shall not extend beyond 60 days after the schedule maturity date of the FHA-insured note which may be greater than the term of the contract.

(e) The term of the contract shall be approved by the field office pursuant to the applicable Section 8 regulations and the owner shall be required to continue to provide low-income housing for the full term of the contract. There shall be no option in the owner to terminate or renew the contract at shorter intervals. In the event of a default under the contract, HUD may terminate or suspend payments under the contract, may seek specific performance of the contract and may pursue other remedies.

§ 811.207 Issuance of obligations and escrow.

(a) The obligations shall be issued prior to initial endorsement by HUD of the FHA-insured mortgage note. The proceeds of the obligations shall, upon receipt, be placed in escrow with the trustee pursuant to the trust indenture. Disbursement may be made from the escrow only for interest payments on the obligations and to purchase GNMA-guaranteed construction loan certificates.

(b) Funds in the escrow shall be invested in accordance with Section 811.208(b)(4) to earn interest. Investment income shall be added to and used for the purposes of the escrow.

(c) In the event that GNMA-guaranteed permanent loan certificates are not issued within the maturity period of the construction loan certificates, the remaining funds in the escrow shall be used to redeem the portion of the obligations that exceeds the outstanding amount of GNMA-guaranteed construction loan certificates. However, such date for redemption may be extended to a later specified date in the event:

(1) HUD, the mortgagee and the trustee have agreed to such extended date, and

(2) Additional funds, in the form of cash or an unconditional letter of credit, are added to the escrow to guarantee that there will be sufficient funds in the escrow on the extended date to pay all amount that are then required to be paid from the escrow on at least as favorable a basis as if there had been no extension.

(d) The trustee shall release the remaining funds from the escrow following issuance of GNMA-guaranteed permanent loan certificates.

(1) To supplement the documentation required prior to final endorsement to meet FHA requirements, the financing agency shall submit a certified statement of the amounts expended for cost of issuance and of investment income and interest payments during the escrow period. Records of this cost data shall be available to HUD upon request.

(2) If the mortgage is reduced as a result of cost certification, escrowed funds shall be used to prepay an equal amount of obligations.

(3) The trustee shall release funds from the escrow up to the amount of the GNMA-guaranteed permanent loan certificates.

(e) If there are funds remaining in the escrow after the release of funds under (c) and (d) above, the trustee shall place such funds in the Treasury Account.

(f) If the debt service amount to be paid by the owner is reduced at final endorsement, the field office shall reduce the contract rents to the level justified by the required debt service.

§ 811.208 Trust indenture provisions.

(a) The trust indenture shall include, among other things, the following specific provisions with regard to the financing and shall be otherwise consistent with this Subpart B. The trust indenture shall not include any permit and pledge or assignment of the FHA-insured mortgage (other than to GNMA as part of the issuance of mortgage-backed securities) or any amendment of the FHA requirements or documents.

(b) Reserves, accounts and escrows.

(1) The trust indenture shall provide for the obligations to be placed in an escrow upon issuance and for funds to be released from the escrow in accordance with Section 811.207.

(2) The trust indenture shall provide for the maintenance of reserves and/or accounts, as approved by HUD to assure that there are funds as necessary to make all required payments to the holder of the obligations.

(3) The trust indenture shall require that the amount of the obligation servicing fee be placed in a separate account. The trustee is to be authorized to withdraw from this account the trustee's fee and the actual and necessary expenses of the financing agency. No other funds are to be paid or transferred to the financing agency except where explicitly provided for and approved by HUD.

(4) Funds in reserves, accounts or escrows shall be invested to earn interest in savings accounts or other deposits that are federally insured, in Treasury securities, in securities insured or guaranteed by a Federal agency, or in securities insured by a U.S. Government agency. Investment income shall be added to and used for the purposes of the particular reserve, account or escrow.

(5) To the extent there are excess funds in any reserve, account or escrow, these shall be transferred at two year intervals to a Treasury Account and funds in this account shall be immediately paid to the Department of the Treasury.

(c) Additional obligations may be issued, whether for increased costs during construction or for project improvements after final endorsement, if they are shown to be reasonable and are approved by HUD pursuant to this Subpart B and by the trustee, provided that HUD approves at final endorsement an increase in the mortgage amount, additional mortgage-backed securities are issued and, pursuant to the application Section 8 regulations, the contract rents are increased to the extent required to pay debt service on the additional obligations. Such additional obligations shall not be issued for the refinancing of any outstanding obligations.

(d) The trust indenture shall provide that obligations shall be prepaid only under such conditions as HUD shall require, including reductions of contract rents and continued operation of the project for the housing of low-income families.

(1) The obligations shall be redeemed in the event that, as a result of a mortgage default and FHA insurance claim or for any other reason, the principal balance of the mortgage-backed securities held by the trustee is prepaid.

(2) Any funds remaining in any reserve, account or escrow under the trust indenture after such redemption are to be transferred to the Treasury Account.

§ 811.209 Approval of obligations as tax-exempt pursuant to Section 11(b).

(a) The HUD field office director shall send the financing agency a notification of approval of obligations as tax-exempt pursuant to Section 11(b) of the Act if the field office finds that:

(1) Obligations proposed to be issued for the financing of a low-income housing project comply with this Subpart B.

(2) The terms and conditions of the financing (not including the official statement, prospectus or other disclosure statement) have been approved pursuant to this Subpart B and the applicable Section 8 regulations.

(3) The agreement has been executed and, where applicable, approved in writing by HUD and the MBS-issuer has obtained from GNMA an executed Commitment to Guarantee Mortgage-backed Securities.

(b) The notification shall include a statement that:

(1) Pursuant to this Subpart B and the Act, HUD has found the financing agency to be an eligible PHA.

(2) The obligations, including interest thereon, when issued in accordance with the approved application, shall be exempt from all taxation now or hereafter imposed by the United States whether paid by the PHA or by HUD.

(3) The income derived by the PHA from the low-income housing project shall be exempt from all taxation now or hereafter imposed by the United States.

(4) The mortgage-backed securities issued by the MBS-issuer may be used in connection with the tax-exempt obligations.

(c) This notification of approval of tax exemption shall not be subject to revocation by HUD.

§ 811.210 Applicability and approval where tax exemption is not pursuant to Section 11(b).

(a) As a condition of obtaining HUD approval of the terms and conditions of the financing of a Section 8 project as required by Section 8(e)(4) of the Act, a financing agency proposing to issue obligations that are exempt from federal taxation under Section 103(d) of the Internal Revenue Code of 1954, the Federal Relations Act for Puerto Rico or other statute, where mortgage-backed securities are to be combined with such obligations, is required to comply with all provisions of this Subpart B.

(b) The field office director shall send the financing agency a notification of approval if the field office finds that:

(1) Obligations proposed to be issued for the financing of a low-income

housing project comply with the Subpart

B.

(2) The terms and conditions of the financing (not including the official statement, prospectus or other disclosure statement) have been approved pursuant to this Subpart B and the applicable Section 8 regulations.

(3) The agreement has been executed and, where applicable, approved in writing by HUD and the MBS-issuer has obtained from GNMA an executed Commitment to Guarantee Mortgage-backed Securities.

(4) The notification shall include a statement that mortgage-backed securities issued by the MBS-issuer may be used in connection with the tax-exempt obligations.

Issued at Washington, D.C., June 1, 1979.

Lawrence B. Simons,

*Assistant Secretary for Housing-Federal
Housing Commissioner.*

[FR Doc. 79-19992 Filed 6-27-79; 8:45 am]

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Thursday
June 28, 1979

REGISTRATION
FOR
1979
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Part VII

**Department of
Health, Education,
and Welfare**

Office of Human Development Services

**Child Welfare Research and
Demonstration Grants Program**

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

**Office of Human Development
Services**

[Program Announcement No. 13608-794]

**Administration for Children, Youth,
and Families; Child Welfare Research
and Demonstration Grants Program**

AGENCY: Office of Human Development
Services, HEW.

SUBJECT: Announcement of Availability
of Grant Funds for the Child Welfare
Research and Demonstration Grants
Program.

SUMMARY: The Administration for
Children, Youth and Families (ACYF)
announces that applications are being
accepted for the Child Welfare Research
and Demonstration Grants Program
under Section 426 of the Social Security
Act as amended.

DATES: Closing date for receipt of all
applications under this Program
Announcement is September 11, 1979.

**Definitions of Research and
Demonstration**

Research refers to a project to
develop new knowledge or to evaluate
existing knowledge in new settings.

Demonstration refers to activities
designed specifically to show the
method of operation or applicability of a
research or program model.

Scope of This Program Announcement

This Program Announcement covers
the first quarter of Fiscal Year 1980. This
is one of a series of Program
Announcements relating to the purpose
and objectives of the Child Welfare
Research and Demonstration Grants
Program. Competition for grant awards
in other ACYF special emphasis areas
within the program will be announced
separately in the Federal Register. Grant
support is not available for ongoing
programs or services (such as the
provision of day care services), for
projects that demonstrate a service that
has already been established in other
communities and is generally accepted
as part of a comprehensive child welfare
or child development program, or for
staff training projects.

Since ACYF funds research and
demonstration grants under its National
Center on Child Abuse and Neglect, it
will not consider or fund child abuse
and neglect projects under the authority
of the Child Welfare Research and
Demonstration Grants Program.

Program Purpose

The purpose of the Child Welfare
Research and Demonstration Grants

Program is to support 1) special research
or demonstration projects in the field of
child welfare which are of regional or
national significance, 2) special projects
for the demonstration of new methods
or facilities which show promise of
substantial contribution to the
advancement of child welfare, and 3)
projects for the demonstration of the
utilization of research (including
findings resulting therefrom) in the field
of child welfare in order to encourage
experimental and special types of
welfare services.

Program Goals and Objectives

The overall goal of the program is to
support projects where the utilization of
findings is expected to make a
substantial contribution to the
enhancement of the development and
welfare of children and families.

To accomplish this goal, grants will be
awarded for projects which reflect the
following program objective:

*To conduct child and family research
or demonstration projects which
address one or more of three areas.
These areas are:*

1. Studies which investigate the
communication patterns within the
family as they relate to decision making,
coping with family developmental tasks.
Studies which examine verbal and
emotional patterns of communication
within the family and with institutions,
and studies which examine bonding of
adoptive parents/child or foster
parents/biological parents/foster child
are examples in this area.

2. Studies which investigate the use of
mutual supports or informal networks as
family supports, compared to the use of
formal support systems. Family day care
arrangements, other informal child care
arrangements, and a larger range of
support systems might be investigated
as examples in this area.

3. Studies which evaluate changes in
family functioning/coping as a result of
education/information, compared with
changes brought about by diagnostic
and counseling approaches.

It is anticipated that the results of this
research will help service providers
communicate more effectively with
families, become more aware of family
interaction and the role of informal
networks, and use education and
information along with or in place of
professional diagnosis and counseling.

It is hoped that the research findings
will fill major gaps in the yet unexplored
areas dealing with the transitions along
the dependence-independence
continuum, and the continuum of care.

Eligible Applicants

Public or other nonprofit institutions
of higher learning and public or other
nonprofit agencies and organizations
engaged in research or child welfare
activities may apply.

Available Funds

The Administration for Children,
Youth and Families expects to award
approximately \$450,000 (of the \$14.7
million expected to be appropriated by
Congress for Fiscal Year 1980) for new
grants responding to the child and
family objective.

It is expected that approximately five
grants will be awarded for this objective
pursuant to this announcement. The
range of grant awards is expected to be
between \$80,000 and \$120,000 with the
average award expected to be \$100,000.
Projects will be supported for periods of
one to three years.

A new grant is the initial grant made
in support of a project. The initial grant
sustains the Federal share of the budget
for the first year of the project.
Continued support for additional time
remaining in the project period is
dependent on the availability of funds
and the grantee's satisfactory progress.

Grants for the child and family
objective will be awarded by December
31, 1979.

In Fiscal Year 1978, the budget
appropriated for this program was \$15.7
million. In response to a program
announcement, 186 grant applications
responding to a child and family
development objective, including special
concerns to teenage parents, were
submitted. Of these, fourteen child and
family grants, totaling \$1.271 million,
were awarded.

Grantee Share of the Project

Grantees must share in the costs of
research projects only. It is generally
expected that grantees will provide at
least five percent of total project costs.
The grantee share may be in cash or in
kind but must be project-related and
allowable under the Department's
applicable cost principles and Subpart G
published in 45 CFR Part 74 (see 43 FR
34076, August 2, 1978.)

The Application Process

Availability of Forms

In order to be considered for a grant
under the Child Welfare Research and
Demonstration Grants Program, an
application must be submitted on the
standard forms supplied and in the
manner prescribed by the
Administration for Children, Youth and
Families. Application kits which contain

the prescribed application forms and information for the applicant may be obtained from: Administration for Children, Youth and Families, Research, Demonstration and Evaluation Division, P.O. Box 1182, Washington, D.C. 20013, Attention: 13608-794, Telephone: (202) 755-7755; 755-7758; 755-7740.

Application Submission

The prescribed application form must be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award.

One signed original and two copies of the grant application, including all attachments, must be submitted to the address indicated in the application instructions. The application must clearly identify the program announcement number and the program objective for which the application is to compete.

A-95 Notification Process

This program does not require the A-95 notification process.

Application Consideration

The Commissioner for Children, Youth and Families will make the final decision on each grant application for this program. Applications which are complete and conform to the requirements of this program announcement will be competitively reviewed and evaluated by qualified persons independent of the Administration for Children, Youth and Families. An application will compete only with other applications addressing that same objective.

The results of the review will assist the Commissioner in considering competing applications. The Commissioner's consideration will also take into account the comments of the HEW Regional Offices and the Headquarters ACYF staff.

If the Commissioner decides to disapprove or not to fund a competing grant application, the unsuccessful applicant will be notified in writing. The letter will include an explanation of the reasons for disapproval or non-funding or will indicate that an explanation may be obtained upon request.

Successful applicants will be notified through the issuance of a Notice of Grant Awarded (NGA), which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is contemplated.

Special Consideration for Funding

Priority in funding will be given to applications for projects which address concerns of minority families, i.e., black, Hispanic, Native American and Asian American. Thus, any such projects judged acceptable will be funded before other applicants.

Criteria for Review and Evaluation of Grant Applications

Competing grant applications for either objective will be reviewed and evaluated against the following criteria:

1. Estimated cost to the government is reasonable considering anticipated results; (10 points)

2. Project objectives are identical with or capable of achieving the specific program purpose and objectives defined in the program announcement and program guidance; (20 points)

3. Proposed methodology or procedures, if well executed, are capable of attaining project objectives:

a. Review of literature

b. Innovativeness of approach/design

c. Objectives/hypotheses clearly stated

d. Procedures (sample size; comparison/control groups; treatment(s); design, measures/instruments; data analysis plan; time schedule; reports) (30 points)

4. Comparability of proposed study to other completed and/or ongoing studies:

a. Applicant indicates awareness of related projects

b. Applicant uses marker measure and marker variables for research comparability as appropriate (10 points)

5. Project personnel are or will be well qualified, and applicant organization has or will have adequate facilities; (20 points)

6. Dissemination/Utilization Plan

a. Applicant indicates knowledge of appropriate users

b. Applicant presents an appropriate utilization plan (10 points)

In addition to the above criteria, applications will be reviewed to assure:

1. that if subjects are at risk, appropriate safeguards have been taken, and

2. that if formal agreements with cooperating agencies are necessary for the implementation of a demonstration project, they are documented and included with the application.

Closing Date for Receipt of Applications

The closing date for receipt of all applications under this Program Announcement is September 11, 1979. Applications may be mailed or hand-

delivered. An application will be considered received on time if:

The application was sent by registered or certified mail not later than September 11, 1979 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

The application is received on or before close of business, September 11, 1979 in the DHEW mailroom in Washington, D.C.; or

The application is hand-delivered to the address on the application kit by close of business September 11, 1979. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.

Applications received after the deadline because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program Number 13008 Child Welfare Research and Demonstration Grants Program.)

Dated: May 23, 1979.

Blandina C. Ramirez,
Commissioner for Children, Youth and Families.

Approved: June 22, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

(PR Doc. 79-19087 Filed 6-27-79; 9:45 am)

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Thursday
June 28, 1979

REGULATIONS

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Part VIII

**Department of the
Treasury**

Fiscal Service

**Proposed Regulations Governing Savings
Bonds, Series EE and HH**

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 353]

Regulations Governing Savings Bonds, Series EE and HH

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The regulations proposed in this Part will govern the United States Savings Bonds, Series EE and Series HH, that will go on sale on January 2, 1980. These bonds will replace the Series E and H bonds currently being sold. The sale of E and H bonds will terminate on December 31, 1979, except for the Series E bonds being issued under payroll deduction plans. This exception, which is being made to allow employers time to convert to the new series, will end on June 30, 1980.

In his announcement of January 10, 1979, Secretary of the Treasury W. Michael Blumenthal disclosed the principal changes that would be made in the Savings Bonds Program. They will appear in separate offering circulars describing the two new series of bonds being offered for sale and a circular containing the regulations governing them, all to be published in the Federal Register. The offering circulars and the regulations contain the terms and conditions under which the bonds are issued and constitute the contract between the Department of the Treasury and owners of the bonds. Publication of the offering circulars is scheduled for late 1979. The regulations to govern the bonds, however, are being published at this time to allow the public an opportunity to study, understand, and comment upon them. A public hearing will be conducted if the comments received show that it would be desirable to do so. In this case the time and place of the hearing will be announced in the Federal Register. After final adoption, the regulations will be set forth in Department of the Treasury Circular, Public Debt Series No. 3-80, and published in Title 31, Code of Federal Regulations, Part 353.

DATES: Comments must be received on or before August 15, 1979. Proposed effective date: January 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Guerin, Assistant Chief Council, Bureau of the Public Debt, 202-376-0243.

SUPPLEMENTAL INFORMATION: As the new Series EE and HH bonds are a

continuation of the Treasury's Savings Bonds Program, the new regulations have been modeled after the regulations in Department of the Treasury Circular No. 530 (31 CFR, Part 315), which govern the current series of bonds. The main divisions of the regulations are generally the same, but some material of a regulatory nature previously contained in the offering circulars has been incorporated in the regulations. Effort has also been made to make the new regulations easier to read and understand. This was done pursuant to Executive Order 12044 (43 FR 12661) and the Department's directive on regulations improvement (43 FR 52120). At the same time, however, the Treasury has been obliged to moderate this effort to avoid investor misunderstanding and confusion as to the effect of changes of language between the regulations governing the new and old series of bonds where no real difference was intended.

In addition, a substantial body of case law has developed in connection with United States Savings Bonds since the bonds were first issued. Many of these court cases, both State and Federal, involved rights conferred on owners, coowners and beneficiaries named on the bonds and, particularly, the rights of survivorship of coowners and beneficiaries. These cases culminated in *Free v. Bland*, 369 U.S. 663, 82 S.Ct. 1089 (1962), in which the United States Supreme Court recognized that savings bonds are Federal contracts, and that the rights conferred by the regulations governing the bonds supersede inconsistent rights arising under State law. The regulations governing the new bonds continue to provide the same special property interests to bondholders that have been historically unique to savings bonds.

It is the intention and expectation of the Department of the Treasury that these new series of savings bonds will be treated similarly to the other series of savings bonds. The bonds and their governing regulations have deliberately been designed so that all case law applicable to the older series would be equally applicable to the new series. In other words, as mentioned, the new bonds are a continuation, without major substantive change, of the old bonds. The changes that are proposed to be made generally affect the ways in which owners may facilitate transactions involving bonds, rather than with the substantive property rights.

Registration and Issue

In addition to the forms of registration previously authorized for savings bonds,

registration will be permitted in the name of either parent as natural guardian of a minor. There have been requests for this form of ownership, especially from grandparents who buy bonds for minor grandchildren but wish to make sure the bonds could not be cashed during minority or until a particular parent, the named natural guardian, decides to do so.

The purchase of bonds through payroll savings plans will also be permitted for residents of Canada and Mexico regularly employed in the United States.

A specific prohibition on the issuance of bonds in the furtherance of chain letter schemes has been added. This provision reflects present policy and its inclusion in the regulations is intended to clarify any question that the public may have had concerning the purchase of savings bonds for use in chain letter and similar schemes.

Limitations on Purchases

The annual limit on purchases of Series EE and HH bonds will be raised to \$15,000 and \$20,000 (issue price), respectively, for individuals. The special annual limitations for employees savings or vacation plans and gift purchases for tax-exempt organizations are: \$2,000 (issue price) of Series EE for eligible plans and \$200,000 (issue price) of Series HH for gift purchases. In the regulations governing Series E and H bonds, these limitations are described as limitations on holdings. The word "purchases" has been substituted for "holdings" to enhance understanding. What is being regulated is the amount purchased and retained, not the amount of bonds of the same issue year that a person might acquire by inheritance, survivorship, etc.

Employees Savings Plans

The rules governing savings plans that qualify for the special limitation on the purchase of savings bonds of Series E appear in the offering circular for the bonds, Department of the Treasury Circular No. 653, current revision, Sec. 316.5(b) (31 CFR 316.5(b)). For bonds of Series EE, the rules will appear at Sec. 353.13 of these regulations. The change is being made because the rules are essentially regulatory in nature.

Limitation on Transfer or Pledging—Judicial Proceedings

United States Savings Bonds are nontransferable obligations. They may not be transferred, e.g., used to pay outstanding bills, or pledged as collateral. Bonds accepted for these or any similar purposes by creditors or

purchasers will not be paid to them by the Treasury. They will be paid only to and upon the request of the persons in whose names the bonds are inscribed, or someone legally authorized to act for them.

The pledging of savings bonds in lieu of surety to secure obligations to the United States, which is presently authorized, is not being extended to the new series.

Relief for Loss or Theft, etc.

New requirements have been established for servicing claims that are not filed for a substantial period after bonds have been redeemed or have finally matured. If a claim is filed 10 or more years after the recorded date of redemption, and is disallowed, a copy of the paid bond will not be available for the examination of the claimant. Claims filed six or more years after final maturity of a bond will be processed only if the bond serial number is provided. These limitations will allow substantial administrative savings in recordkeeping costs.

Payment

Except for a change in the minimum retention period for Series EE bonds, the regulations governing the payment of savings bonds are not being essentially changed. Most banks, trust companies, savings and loan associations, savings banks and other financial institutions are qualified to act as paying agents for Series EE bonds. Series HH bonds can be redeemed only by a Federal Reserve Bank or Branch or the Bureau of the Public Debt.

Commercial banks and other financial institutions are authorized to pay bonds only to individuals named as owners or coowners on the bonds. As payment to others often requires submission of appropriate documentary evidence, these cases are processed only by a Federal Reserve Bank or the Bureau of the Public Debt. If the owner is deceased or disabled and there is no other person named on the bond who can request payment, instructions should be obtained from a Federal Reserve Bank or Branch or the Bureau of the Public Debt.

The regulations permit the recognition of powers of attorney to cash bonds if the grantor specifically authorizes the attorney-in-fact to sell or redeem Treasury securities and if the power of attorney is executed before a certifying officer. The use of more general powers of attorney will also be recognized in cases in which the grantor has become mentally incompetent or physically disabled, provided the power

specifically provides for this contingency.

Certifying Officers

When savings bonds were first introduced, United States post offices sold a large volume of bonds and postal officials were authorized to act as certifying officers for bond transactions. Over time, however, the certification services post offices provide have been seldom used and are being terminated. With this exception, no essential change is being made in the designation of certifying officers.

Reissue

The reissue provisions of Series EE and HH bonds will differ from those of Series E and H in that the name of a beneficiary may be removed from a bond upon the registered owner's request alone and without the consent of the beneficiary. The regulations are not being substantially changed in any other respect.

Deceased Owners

The Bureau of the Public Debt has developed nonadministration procedures for the disposition of bonds of Series E and H belonging to the estate of a deceased owner. These procedures are being expanded to provide for payment of bonds to the surviving relatives of the decedent according to a table of precedence.

* * * * *

The Fiscal Service proposes to issue the following regulations to govern the new United States Savings Bonds of Series EE and HH to be offered to the public beginning January 2, 1980. Interested parties are invited to file written comments on these regulations. If appropriate, a public hearing will be held.

Dated: June 22, 1979.

Paul H. Taylor,
Fiscal Assistant Secretary.

Part 353 is proposed to be added to Title 31 CFR to read as follows:

PART 353—REGULATIONS GOVERNING U.S. SAVINGS BONDS, SERIES EE AND HH

Subpart A—General Information

- Sec.
353.0 Applicability.
353.1 Official agencies.
353.2 Definitions.

Subpart B—Registration

- 353.5 General rules.
353.6 Restrictions on registration.
353.7 Authorized forms of registration.
353.8 Chain letters prohibited.

Subpart C—Limitations on Annual Purchases

- Sec.
353.10 Amounts which may be purchased.
353.11 Computation of amount.
353.12 Disposition of excess.
353.13 Employee savings and vacation plans—conditions of eligibility.

Subpart D—Limitations on Transfer or Pledge

- 353.15 Transfer.
353.16 Pledge.

Subpart E—Judicial Proceedings

- 353.20 General.
353.21 Payment to judgment creditors.
353.22 Payment or reissue pursuant to judgment.
353.23 Evidence.

Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bond

- 353.25 General.
353.26 Application for relief—after receipt of bond.
353.27 Application for relief—nonreceipt of bond.
353.28 Recovery or receipt of bond before or after relief is granted.
353.29 Adjudication of claims.

Subpart G—Interest

- 353.30 Series EE bonds.
353.31 Series HH bonds.

Subpart H—General Provisions for Payment

- 353.35 Payment (redemption).
353.36 Payment during life of sole owner.
353.37 Payment during lives of both coowners.
353.38 Payment during lifetime of owner of beneficiary bond.
353.39 Surrender for payment.
353.40 Special provisions for payment.
353.41 Partial redemption.
353.42 Nonreceipt or loss of check issued in payment.
353.43 Effective date of request for payment.
353.44 Withdrawal of request for payment.

Subpart I—Reissue and Denominational Exchange

- 353.45 General.
353.46 Effective date of request for reissue.
353.47 Authorized reissue—during lifetime.
353.48 Restrictions on reissue.
353.49 Correction of errors.
353.50 Change of name.
353.51 Requests for reissue.

Subpart J—Certifying Officers

- 353.55 Individuals authorized to certify.
353.56 General instructions and liability.
353.57 When a certifying officer may not certify.

Subpart K—Minors, Incompetents, Aged Persons, Absentees, et al.

- 353.60 Payment to representative of an estate.
353.61 Payment after death.
353.62 Payment to minors.
353.63 Payment to a parent or other person on behalf of a minor.

Sec.

353.64 Payment, reinvestment, or exchange—voluntary guardian of an incompetent.

353.65 Payment—attorney-in-fact of an incompetent or a physically disabled person.

353.66 Reissue.

Subpart L—Deceased Owner, Coowner, or Beneficiary

353.70 General rules governing entitlement.

353.71 Estate administered.

353.72 Estate not administered.

Subpart M—Fiduciaries

353.75 Payment or reissue during the existence of the fiduciary estate.

353.76 Payment or reissue after termination of the fiduciary estate.

353.77 Exchanges by fiduciaries.

Subpart N—Private Organizations (Corporations, Associations, Partnerships, etc.) and Governmental Agencies, Units, and Officers

353.80 Payment to corporations or unincorporated associations.

353.81 Payment to partnerships.

353.82 Reissue or payment to successors of corporations, unincorporated associations, or partnerships.

353.83 Reissue or payment on dissolution of corporation or partnership.

353.84 Payment to certain institutions.

353.85 Reissue in name of trustee or agent for reinvestment purposes.

353.86 Reissue upon termination of investment agency.

353.87 Payment to governmental agencies, units, or their officers.

Subpart O—Miscellaneous Provisions

353.90 Waiver of regulations.

353.91 Additional requirements; bond of indemnity.

353.92 Supplements, amendments, or revisions.

Authority: 31 U.S.C. 757c.

Subpart A—General Information

§ 353.0 Applicability.

The regulations in this circular, Department of the Treasury Circular, Public Debt Series No. 3-80, govern United States Savings Bonds of Series EE and Series HH. These bonds bear issue dates of January 1, 1980, or thereafter. The regulations in Department of the Treasury Circular No. 530, current revision (31 CFR, Part 315), govern all other United States Savings Bonds and Savings Notes.

§ 353.1 Official agencies.

(a) The Bureau of the Public Debt of the Department of the Treasury is responsible for administering the Savings Bonds Program. Authority to process transactions has been delegated to Federal Reserve Banks and Branches, as fiscal agents of the United States.

(b) Communications concerning transactions and requests for forms should be addressed to (1) a Federal Reserve Bank or Branch; (2) the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101; or (3) the Bureau of the Public Debt, Washington, D.C. 20226. The names and addresses of the Federal Reserve Banks and Branches are:

Federal Reserve Bank of Boston, Boston, Massachusetts 02106.

Federal Reserve Bank of New York, Federal Reserve Post Office Station, New York, New York 10045.

Buffalo Branch, Federal Reserve Bank, Box 961, Buffalo, New York 14240.

Federal Reserve Bank of Philadelphia, Box 77, Philadelphia, Pennsylvania 19105.

Federal Reserve Bank of Cleveland, Box 6387, Cleveland, Ohio 44101.

Cincinnati Branch, Federal Reserve Bank, Box 999, Cincinnati, Ohio 45201.

Pittsburgh Branch, Federal Reserve Bank, Box 867, Pittsburgh, Pennsylvania 15230.

Federal Reserve Bank of Richmond, Box 27622, Richmond, Virginia 23261.

Baltimore Branch, Federal Reserve Bank, Box 1378, Baltimore, Maryland 21203.

Charlotte Branch, Federal Reserve Bank, Box 300, Charlotte, North Carolina 28230.

Federal Reserve Bank of Atlanta, Atlanta, Georgia, 30303.

Birmingham Branch, Federal Reserve Bank, Box 10447, Birmingham, Alabama 35202.

Jacksonville Branch, Federal Reserve Bank, Jacksonville, Florida 32203.

Miami Branch, Federal Reserve Bank, Box 520847, Miami, Florida 33152.

Nashville Branch, Federal Reserve Bank, Nashville, Tennessee 37203.

New Orleans Branch, Federal Reserve Bank, Box 61630, New Orleans, Louisiana 70161.

Federal Reserve Bank of Chicago, Box 834, Chicago, Illinois 60690.

Detroit Branch, Federal Reserve Bank, Box 1059, Detroit, Michigan 48231.

Federal Reserve Bank of St. Louis, Box 442, St. Louis, Missouri 63166.

Little Rock Branch, Federal Reserve Bank, Box 1261, Little Rock, Arkansas 72203.

Louisville Branch, Federal Reserve Bank, Box 899, Louisville, Kentucky 40201.

Memphis Branch, Federal Reserve Bank, Box 407, Memphis, Tennessee 38101.

Federal Reserve Bank of Minneapolis, Minneapolis, Minnesota 55480.

Helena Branch, Federal Reserve Bank, Helena, Montana 59601.

Federal Reserve Bank of Kansas City, Federal Reserve Station, Kansas City, Missouri 64198.

Denver Branch, Federal Reserve Bank, Box 5228 (Terminal Annex), Denver, Colorado 80217.

Oklahoma City Branch, Federal Reserve Bank, Box 25129, Oklahoma City, Oklahoma 73125.

Omaha Branch, Federal Reserve Bank, Omaha, Nebraska 68102.

Federal Reserve Bank of Dallas, Station K, Dallas, Texas 75222.

El Paso Branch, Federal Reserve Bank, Box 100, El Paso, Texas 79999.

Houston Branch, Federal Reserve Bank, Box 2578, Houston, Texas 77001.

San Antonio Branch, Federal Reserve Bank, Box 1471, San Antonio, Texas 78295.

Federal Reserve Bank of San Francisco, Box 7702, San Francisco, California 94120.

Los Angeles Branch, Federal Reserve Bank, Box 2077, Terminal Annex, Los Angeles, California 90051.

Portland Branch, Federal Reserve Bank, Box 3436, Portland, Oregon 97208.

Salt Lake City Branch, Federal Reserve Bank, Box 30780, Salt Lake City, Utah 84125.

Seattle Branch, Federal Reserve Bank, Box 3567, Seattle, Washington 98124.

(c) Notices and documents must be filed with the agencies referred to above and as indicated in these regulations.

§ 353.2 Definitions.

(a) "Bond" means United States Savings Bond of Series EE or HH, unless the context indicates otherwise.

(b) "Incompetent" means an individual who is incapable of handling his business affairs because of a legal, mental or medical disability, except that a minor is not an incompetent solely because of age.

(c) "Issuing agent" means an organization that has been qualified under the provisions of Department of the Treasury Circular, Public Debt Series No. 4-67, current revision (31 CFR, Part 317), to issue savings bonds.

(d) "Paying agent" means a financial institution that has been qualified under the provisions of Department of the Treasury Circular No. 750, current revision (31 CFR, part 321), to make payment of savings bonds.

(e) "Payment" means redemption, unless otherwise indicated by context.

(f) "Person" means any legal entity including, but without limitation, an individual, corporation (public or private), partnership, unincorporated association, or fiduciary estate.

(g) "Personal trust estates" means trust estates established by natural persons in their own right for the benefit of themselves or other natural persons in whole or in part, and common trust funds comprised in whole or in part of such trust estates.

(h) "Reissue" means the cancellation and retirement of a bond and the issuance of a new bond or bonds of the same series, same issue date, and same total face amount.

(i) "Representative of the estate of a minor, incompetent, aged person, absentee, et al." means the court-appointed or otherwise qualified person, regardless of title, who is legally

authorized to act for the individual. The term does not include parent in their own right, voluntary or natural guardians, or the executors or administrators of decedents' estates.

(j) "Surrender" means the actual receipt of a bond with an appropriate request for payment or reissue by either a Federal Reserve Bank or Branch, the Bureau of the Public Debt, or, if a paying agent is authorized to handle the transaction, the actual receipt of the bond and the request for payment by the paying agent.

(k) "Taxpayer identifying number" means a social security account number or an employer identification number.

(l) "Voluntary guardian" means an individual who is recognized as authorized to act for an incompetent, as provided by § 353.64.

Subpart B—Registration

§ 353.5 General rules.

(a) *Registration is conclusive of ownership.* Savings bonds are issued only in registered form. The registration must express the actual ownership of, and interest in, the bond. The registration is conclusive of ownership, except as provided in § 353.49.

(b) *Requests for registration.* Registrations requested must be clear, accurate and complete, conform substantially with one of the forms set forth in this Subpart, and include the taxpayer identifying number of the owner or first-named coowner. The taxpayer identifying number of the second-named coowner or beneficiary is not required but its inclusion is desirable. The registration of all bonds owned by the same person, organization, or fiduciary should be uniform with respect to the name of the owner and any description of the fiduciary capacity. An individual should be designated by the name he or she is ordinarily known by or uses in business, including at least one full given name. The name may be preceded or followed by any applicable title, such as "Miss", "Mr.", "Mrs.", "Ms.", "Dr.", "Rev.", "M.D.", or "D.D.". A suffix, such as "Sr." or "Jr.", must be included when ordinarily used or when necessary to distinguish the owner from another member of his family. A married woman's own given name, not that of her husband, must be used; for example, "Mary A. Jones" or "Mrs. Mary A. Jones", NOT "Mrs. Frank B. Jones". The address must include, where appropriate, the number and street, route, or any other local feature, city, State, and ZIP Code.

(c) *Inscription of bonds purchased as gifts.* If the bonds are purchased as gifts, awards, prizes, etc., and the taxpayer identifying number of the intended owner is not known, the purchaser's number must be furnished. In this event, the issuing agent will inscribe the word "GIFT" and the purchaser's number on the bond. Bonds so inscribed will not be associated with the purchaser's own holdings. The registration of a bond in the name of a purchaser with another as coowner or in the purchaser's name with another as beneficiary is not considered a gift or an award.

§ 353.6 Restrictions on registration.

(a) *Natural persons.* Only an individual in his or her own right may be designated as coowner or beneficiary along with any other individual, whether on original issue or reissue, except as provided in § 353.7(f).

(b) *Residence.* The designation of an owner or first-named coowner is restricted, on original issue only, to persons (whether individuals or others) who are:

(1) Residents of the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone;

(2) Citizens of the United States residing abroad;

(3) Civilian employees of the United States or members of its armed forces, regardless of their residence or citizenship; and

(4) Residents of Canada or Mexico who work in the United States but only if the bonds are purchased on a payroll deduction plan and the owner provides a taxpayer identifying number.

A nonresident alien may be designated coowner or beneficiary or, on authorized reissue, owner, unless the nonresident alien is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States or its agencies or instrumentalities. See Department of the Treasury Circular No. 655, current revision (31 CFR, Part 211). Registration is not permitted in any form which includes the name of any alien who is a resident of any restricted area.

(c) *Minors.* (1) A minor may purchase with his wages, earnings, or other funds belonging to him and under his control bonds registered in his name alone or with a coowner or beneficiary.

(2) Bonds purchased by another person with funds belonging to a minor not under legal guardianship or similar fiduciary estate must be registered, without a coowner or beneficiary, in the

name of the minor or a natural guardian on behalf of a minor.

(3) Bonds purchased with funds of another may be registered to name the minor as owner, coowner, or beneficiary. If the minor is under legal guardianship or similar fiduciary estate, the registration must include an appropriate reference to it.

(4) Bonds purchased as a gift to a minor under a gifts-to-minors statute must be registered as prescribed by the statute and no coowner or beneficiary may be named.

(5) Bonds purchased by a representative of a minor's estate must be registered in the name of the minor and must include in the registration an appropriate reference to the guardianship or similar fiduciary estate. Bonds purchased by a representative of the estates of two or more minors, even though appointed in a single proceeding, must be registered in the name of each minor separately with appropriate reference to the guardianship or similar fiduciary estate.

(d) *Incompetents.* Bonds may be registered to name as owner, coowner, or beneficiary an incompetent for whose estate a guardian or similar representative has been appointed, except that a coowner or beneficiary may not be named on bonds purchased with funds belonging to the incompetent. The registration must include appropriate reference to the guardianship or similar fiduciary estate. Bonds should not be registered in the name of an incompetent unless there is a representative for his or her estate, except as provided in § 353.64.

§ 353.7 Authorized forms of registration.

Subject to any limitations or restrictions contained in these regulations on the right of any person to be named as owner, coowner, or beneficiary, bonds should be registered as indicated below. A savings bond inscribed in a form not substantially in agreement with one of the forms authorized by this Subpart is not considered validly issued.

(a) *Natural persons.* A bond may be registered in the names of individuals in their own right, but only in one of the forms authorized by this paragraph.

(1) *Single ownership form.* A bond may be registered in the name of one individual. Example:

John A. Jones 123-45-6789.

(2) *Coownership form.* A bond may be registered in the names of two individuals in the alternative as coowners. The form of registration "A and B" is not authorized. Examples:

John A. Jones 123-45-6789 or Ella S. Jones 987-65-4321.

John A. Jones 123-45-6789 or (Miss, Ms. or Mrs.) Ella S. Jones.

Ella S. Jones 987-65-4321 or John A. Jones.

(3) *Beneficiary form.* A bond may be registered in the name of one individual payable on death to another. "Payable on death to" may be abbreviated to "P.O.D." Examples:

John A. Jones 123-45-6789 or payable on death to Mrs. Ella S. Jones.

John A. Jones 123-45-6789 P.O.D. Ella S. Jones 987-65-4321.

(b) *Fiduciaries (including legal guardians and similar representatives, certain custodians, natural guardians, executors, administrators, and trustees).*

(1) *General.* A bond may be registered in the name of any person or persons or any organization acting as fiduciary of a single fiduciary estate, but not where the fiduciary will hold the bond merely or principally as security for the performance of a duty, obligation, or service. Registration should conform to a form authorized by this paragraph. A coowner or beneficiary may be named only in accordance with the applicable provisions of § 353.6(c) and (d). A common trust fund established and maintained by a financial institution authorized to act as a fiduciary will be considered a single fiduciary estate within the meaning of these regulations.

(2) *Legal guardians, conservators, similar representatives, certain custodians.* A bond may be registered in the name and title or capacity of the legally appointed or authorized representative of the estate of a minor, incompetent, aged or infirm person, absentee, et al., or in the name of that individual followed by an appropriate reference to the estate. Examples:

Tenth National Bank, guardian (or conservator, trustee, etc.) of the estate of George N. Brown 123-45-6789, a minor (or an incompetent, aged person, infirm person, or absentee).

Henry C. Smith, conservator of the estate of John R. White 123-45-6789, an adult, pursuant to Sec. 633.572 of the Iowa Code.

John F. Green 123-45-6789, a minor (or an incompetent) under custodianship by designation of the Veterans Administration.

Frank M. Redd 123-45-6789, an incompetent for whom Eric A. Redd has been designated trustee by the Department of the Army pursuant to 37 U.S.C. 602.

Arnold A. Ames, as custodian for Barry B., Bryan 123-45-6789, under the California Uniform Gifts to Minors Act.

Thomas J. Reed, as custodian for Lawrence W. Reed 123-45-6789, a minor, under the laws of Georgia.

Richard A. Rowe 123-45-6789, for whom Reba L. Rowe is representative payee for social security benefits (or black lung

benefits, as the case may be). (If the beneficiary is a minor, the words "a minor" should appear immediately after the social security number.)

Henry L. Green 123-45-6789 or George M. Brown, a minor under legal guardianship of the Tenth National Bank.

Henry L. Green 123-45-6789 P.O.D. George M. Brown, a minor under legal guardianship of the Tenth National Bank.

Redd State Hospital and School, selected payee for John A. Jones 123-45-6789, a Civil Service annuitant, pursuant to 5 U.S.C. 8345(e).

(3) *Natural guardians.* A bond may be registered in the name of the either parent of a minor, as natural guardian. The registration of a bond in this form is considered as establishing a fiduciary relationship. A coowner or beneficiary may be named but only if the funds used to purchase the bonds do not belong to the minor. Examples:

John A. Jones as natural guardian for Henry M. Jones 123-45-6789.

Melba Smith as natural guardian for Thelma Smith 123-45-6789 P.O.D. Bartholomew Smith.

(4) *Executors and administrators.* A bond may be registered in the name of the representative appointed by a court to act for an estate of a decedent or in the name of an executor authorized to administer a trust under the terms of a will although not named trustee. The name and capacity of all the representatives as shown in the letters of appointment must be included in the registration and be followed by an adequate identifying reference to the estate. Examples:

John H. Smith and Calvin N. Jones, executors of the will (or administrators of the estate) of Robert J. Smith, deceased 12-3456789.

John H. Smith, executor of the will of Robert J. Smith, deceased, in trust for Mrs. Jane L. Smith, with remainder over 12-3456789.

(5) *Trustees or life tenants under wills, deeds of trust, agreements, or similar instruments.* A bond may be registered in the name and title of the trustee of a trust estate, or in the name of a life tenant, followed by an adequate identifying reference to the authority governing the trust or life tenancy. Examples:

Thomas J. White and Tenth National Bank, trustees under the will of Robert J. Smith, deceased, 12-3456789.

Jane N. Black 123-45-6789 life tenant under the will of Robert J. Black, deceased.

Tenth National Bank, trustee under agreement with Paul E. White dated 2/1/76, 12-3456789.

Carl A. Black and Henry B. Green, trustees, under agreement with Paul E. White, dated 2/1/76, 12-3456789.

Paul E. White, trustee under declaration of trust dated 2/1/76, 12-3456789.

(i) If the trust instrument designates by title only an officer of a board or an organization as trustee, only the title of the officer should be used. Example:

Chairman, Board of Trustees, First Church of Christ, Scientist, of Chicago, Illinois, in trust under the will of Robert J. Smith, deceased, 12-3456789.

(ii) The names of all trustees, in the form used in the trust instrument, must be included in the registration, except as follows:

(A) If there are several trustees designated as a board or they are required to act as a unit, their names may be omitted and the words "Board of Trustees" substituted for the word "trustee". Example:

Board of trustees of Immediate Relief Trust of Federal Aid Association, under trust indenture dated 2/1/76, 12-3456789.

(B) If the trustees do not constitute a board or are not required to act as a unit, and are too numerous to be designated in the registration by names and title, some or all the names may be omitted. Examples:

John A. Smith, Henry B. Jones, et al., trustees under the will of Edwin O. Mann, deceased, 12-3456789.

Trustees under the will of Edwin O. Mann, deceased, 12-3456789.

(6) *Pension, retirement or similar funds, or eligible employees savings or savings and vacation plans.* A bond may be registered in the name and title, or title alone, of the trustee of a pension, retirement, or similar fund or an eligible employees savings or savings and vacation plan. If the instrument creating the trust provides that the trustees shall serve for a limited term, their names may be omitted. Examples:

Tenth National Bank, trustee of Pension fund of Safety Manufacturing Company, U/A with the company, dated March 31, 1976, 12-3456789.

Trustees of Retirement Fund of Safety Manufacturing Company, under directors' resolution adopted March 31, 1976, 12-3456789.

County Trust Company, trustee of the Employees Savings Plan of Jones Company, Inc., U/A dated January 17, 1976, 12-3456789.

Trustee of the Employees Savings Plan of Brown Brothers, Inc., U/A dated January 20, 1976, 12-3456789.

(7) *Funds of lodges, churches, societies, or similar organizations.* A bond may be registered in the title of the trustees, or a board of trustees, holding funds in trust for a lodge, church, or society, or similar organization, whether or not incorporated. Examples:

Trustees of the First Baptist Church, Akron, Ohio, acting as a Board under Section 15 of its bylaws 12-3456789.

Trustees of Jamestown Lodge No. 1000, Benevolent and Protective Order of Elks, under Section 10 of its bylaws 12-3456789.

Board of Trustees of Lotus Club, Washington, Indiana, under Article 10 of its constitution 12-3456789.

(8) *Investment agents for religious, educational, charitable and non-profit organizations.* A bond may be registered in the name of a bank, trust company, or other financial institution, or an individual, as agent under an agreement with a religious, educational, charitable or non-profit organization, whether or not incorporated, if the agent holds funds for the sole purpose of investing them and paying the income to the organization. The name and designation of the agent must be followed by an adequate reference to the agreement. Examples:

Tenth National Bank, fiscal agent U/A with the Evangelical Lutheran Church of the Holy Trinity, dated 12/28/76, 12-3456789.

Sixth Trust Company, Investment Agent U/A dated September 16, 1976, with Central City Post, Department of Illinois, American Legion 12-3456789.

John Jones, Investment Agent U/A dated September 16, 1976, with Central City Post, Department of Illinois, American Legion 12-3456789.

(9) *Funds of school groups or activities.* A bond may be registered in the title of the principal or other officer of a public, private, or parochial school holding funds in trust for a student body fund or for a class, group, or activity. If the amount purchased for any one fund does not exceed \$2,500 (face amount), no reference need be made to a trust instrument. Examples:

Principal, Western High School, in trust for the Class of 1976 Library Fund 12-3456789.

Director of Athletics, Western High School, in trust for Student Activities Association, under resolution adopted 5/12/76, 12-3456789.

(10) *Public corporations, bodies, or officers as trustees.* A bond may be registered in the name of a public corporation or a public body, or in the title of a public officer, acting as trustee under express authority of law, followed by an appropriate reference to the statute creating the trust. Examples:

Rhode Island Investment Commission, trustee of the General Sinking Fund under Title 35, Ch. 8, Gen. Laws of Rhode Island.

Superintendent of the Austin State Hospital Annex, in trust for the Benefit Fund under Article 3183C, Vernon's Civ. Stat. of Texas Ann.

(c) *Private organizations (corporations, associations, partnerships).*

(1) *General.* A bond may be registered in the name of any private organization in its own right. The full legal name of the organization as set forth in its charter, articles of incorporation, constitution, partnership agreement, or other authority from which its powers are derived, must be included in the registration and may be followed by a parenthetical reference to a particular account other than a trust account.

(2) *Corporations.* A bond may be registered in the name of a business, fraternal, religious, non-profit, or other private corporation. The words "a corporation" must be included in the registration unless the fact of incorporation is shown in the name. Examples:

Smith Manufacturing Company, a corporation 12-3456789.

Green and Redd, Inc. 12-3456789 (Depreciation Act).

(3) *Unincorporated associations.* A bond may be registered in the name of a club, lodge, society, or a similar self-governing association which is unincorporated. The words "an unincorporated association" must be included in the registration. This form of registration must not be used for a trust fund, board of trustees, a partnership, or a sole proprietorship. If the association is chartered by or affiliated with a parent organization, the name or designation of the subordinate or local organization must be given first, followed by the name of the parent organization. The name of the parent organization may be placed in parentheses and, if well known, may be abbreviated. Examples:

The Lotus Club, an unincorporated association 12-3456789.

Local 447, Brotherhood of Railroad Trainmen, an unincorporated association 12-3456789.

Eureka Lodge 317 (A.F. and A.M.), an unincorporated association 12-3456789.

(4) *Partnerships.* A bond may be registered in the name of a partnership. The words "a partnership" must be included in the registration. Examples:

Smith & Jones, a partnership 12-3456789.

Acme Novelty Company, a partnership 12-3456789.

(5) *Sole proprietorships.* A bond may be registered in the name of an individual who is doing business as a sole proprietor. A reference may be made to the trade name under which the business is conducted. Example:

John Jones DBA Jones Roofing Company 123-45-6789.

(d) *Institutions (churches, hospitals, homes, schools, etc.).* A bond may be registered in the name of a church, hospital, home, school, or similar institution conducted by a private organization or by private trustees, regardless of the manner in which it is organized or governed or title to its property is held. Descriptive words, such as "a corporation" or "an unincorporated association", must not be included in the registration. Examples:

Shriners' Hospital for Crippled Children, St. Louis, Missouri 12-3456789.

St. Mary's Roman Catholic Church, Albany, New York 12-3456789.

Rodeph Shalom Sunday School, Philadelphia, Pennsylvania 12-3456789.

(e) *States, public bodies and corporations, and public officers.* A bond may be registered in the name of a State, county, city, town, village, school district, or other political entity, public body, or corporation established by law (including a board, commission, administration, authority, or agency) which is the owner or official custodian of public funds, other than trust funds, or in the full legal title of the public officer having custody of the funds. Examples:

State of Maine.
Town of Rye, New York (Street Improvement Fund).
Maryland State Highway Administration.
Treasurer, City of Chicago.

(f) *The United States Treasury.* A person who desires to have a bond become the property of the United States upon his death may designate the United States Treasury as coowner or beneficiary. Examples:

George T. Jones 123-45-6789 or the United States Treasury.

George T. Jones 123-45-6789 P.O.D. the United States Treasury.

§ 353.8 Chain letters prohibited.

The issuance of bonds in the furtherance of a chain letter or pyramid scheme is considered to be against the public interest and is prohibited.

Subpart C—Limitations on Annual Purchases

§ 353.10 Amounts which may be purchased.

The amount of savings bonds of Series EE and HH which may be purchased, in the name of any one person in any one calendar year, is computed according to the provisions of § 353.11 and is limited as follows:

(a) *Series EE.*

(1) General annual limitation.

\$15,000 (issue price).

(2) Special limitation.

\$2,000 (issue price) multiplied by the highest number of employees participating in an eligible savings or vacation plan, as defined in § 353.13, at any time during the calendar year in which the bonds are issued.

(b) Series HH.**(1) General annual limitation.**

\$20,000 (issue price).

(2) Special limitation.

\$200,000 (issue price) for bonds received in a calendar year as gifts by an organization which at the time of purchase was an exempt organization under the terms of 26 CFR 1.501(c)(3)-1.

§ 353.11 Computation of amount.

(a) *General.* The purchases of bonds in the name of any person in an individual capacity are computed separately from purchases in a fiduciary capacity. A pension or retirement fund, or an investment, insurance, annuity, or similar fund or trust is regarded as an entity, regardless of the number of beneficiaries or the manner in which their shares or interests are established, determined, or segregated.

(b) *Bonds included in computation.* In computing the purchases for each person, the following outstanding bonds are included:

(1) All bonds registered in the name of that person alone;

(2) All bonds registered in the name of the representative of the estate of that person; and

(3) All bonds registered in the name of that person as coowner. However, in computing the amount of bonds of each series held in coownership form, the limitation may be applied to the holdings of either of the coowners or apportioned between them.

(c) *Bonds excluded from computation.* In computing the purchases for each person, the following are excluded:

(1) Bonds on which that person is named beneficiary;

(2) Bonds to which that person has become entitled—

(i) under § 353.70 as surviving beneficiary upon the death of the registered owner,

(ii) as an heir or a legatee of the deceased owner,

(iii) by virtue of the termination of a trust or the happening of a similar event;

(3) Bonds purchased with the proceeds of matured savings bonds or notes of any series;

(4) Bonds issued in an authorized exchange or reinvestment; and

(5) Bonds that are purchased and redeemed within the same calendar year.

§ 353.12 Disposition of excess.

If any person at any time has savings bonds issued during any one calendar year in excess of the prescribed amount, instructions should be obtained from the Bureau of the Public Debt, Parkersburg, West Virginia 26101, for appropriate adjustment of the excess. Under the conditions specified in § 353.90, the Commissioner of the Public Debt may permit excess purchases to stand in any particular case or class of cases.

§ 353.13 Employees savings and vacation plans—conditions of eligibility.

(a) *Definition of plan.* An employee's savings plan is a contributory plan established by the employer for the exclusive and irrevocable benefit of its employees or their beneficiaries. The plan must afford employees the means of making regular savings from their wages through payroll deductions and provide for employer contributions to be added to these savings.

(b) *Definition of terms used in this section.*

(1) The term "assets" means all the employees' contributions and assets purchased with them and employer's contributions and assets purchased with them, as well as accretions, such as dividends on stock, the increment in value on bonds and all other income; but, notwithstanding any other provision of this section, the right to demand and receive "all assets" credited to the account of an employee shall not be construed to require the distribution of assets in kind when it would not be possible or practicable to make such a distribution; for example, Series EE bonds may not be reissued in unauthorized denominations.

(2) The word "beneficiary" means (i) the person or persons, if any, designated by the employee in accordance with the terms of the plan to receive the benefits of the plan upon the employee's death or (ii) the estate of the employee.

(c) *Conditions of eligibility.* An employee's savings plan must conform to the following rules in order to be eligible for the special limitation provided in § 353.10.

(1) *Crediting of assets.* All assets of a plan must be credited to the individual accounts of participating employees and may be distributed only to them or their beneficiaries, except as provided in subparagraph (3).

(2) *Purchase of bonds.* Bonds may be purchased only with assets credited to the accounts of participating employees

and only if the amount taken from any account at any time for that purpose is equal to the purchase price of a bond or bonds in an authorized denomination or denominations, and shares in the bond are credited to the accounts of the individuals from which the purchase price was derived, in amounts corresponding with their shares. For example, if \$50 credited to the account of John Jones is commingled with funds credited to the accounts of other employees to make a total of \$5,000 with which a Series EE bond in the denomination of \$10,000 (face amount) is purchased in December 1980 and registered in the name and title of the trustee, the plan must provide, in effect, that John Jones' account be credited to show that he is the owner of a Series EE bond in the denomination of \$100 (face amount) bearing issue date of December 1, 1980.

(3) *Irrevocable right of withdrawal.* Each participating employee has an irrevocable right to request and receive from the trustee all assets credited to the employee's account or their value, if he prefers, without regard to any condition other than the loss or suspension of the privilege of participating further in the plan. However, a plan may limit or modify the exercise of any such right by providing that the employer's contribution does not vest absolutely until the employee shall have made contributions under the plan in each of not more than 60 calendar months succeeding the month for which the employer's contribution is made.

(4) *Rights of beneficiary.* Upon the death of an employee, his beneficiary shall have the absolute and unconditional right to demand and receive from the trustee all assets credited to the account of the employee or their value, if he so prefers.

(5) *Reissue or payment upon distribution.* When settlement is made with an employee or his beneficiary with respect to any bond registered in the name and title of the plan trustee in which the employee has a share, the bond must be paid or reissued to the extent of the share. If an employee or the beneficiary is to receive distribution in kind, bonds bearing the same issue dates as those credited to the employee's account will be reissued in the name of the employee or the employee's beneficiary to the extent entitled, in authorized denominations, in any authorized form of registration, upon the request and certification of the trustee.

(d) *Application for special limitation.* A trustee of a savings plan who desires

to purchase bonds under the special limitation should submit to the Federal Reserve Bank of the district a copy of (1) the plan, (2) any instructions issued under the plan that concern Series EE bonds, and (3) the trust agreement, in order to establish the plan's eligibility.

(e) *Vacation plans.* Savings bonds may be purchased under certain vacation plans. Questions concerning the eligibility of these plans to purchase bonds in excess of the general limitation should be addressed to the Bureau of the Public Debt, Parkersburg, West Virginia 26101.

Subpart D—Limitations on Transfer or Pledge

§ 353.15 Transfer.

Savings bonds are not transferable and are payable only to the owners named on the bonds, except as specifically provided in these regulations and then only in the manner and to the extent so provided.

§ 353.16 Pledge.

A savings bond may not be hypothecated, pledged, or used as security for the performance of an obligation.

Subpart E—Judicial Proceedings

§ 353.20 General.

(a) The Department of the Treasury will not recognize a judicial determination that gives effect to an attempted voluntary transfer *inter vivos* of a bond, or a judicial determination that impairs the rights of survivorship conferred by these regulations upon a coowner or beneficiary. All provisions of this Subpart are subject to these restrictions.

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid, judicial proceedings, but only as specifically provided in this Subpart. Section 353.23 specifies the evidence required to establish the validity of the judicial proceedings.

(c) The Department of the Treasury and the agencies that issue, reissue, or redeem savings bonds will not accept a notice of adverse claim or notice of pending judicial proceedings, nor undertake to protect the interests of a litigant not in possession of a savings bond.

§ 353.21 Payment to judgment creditors.

(a) *Purchaser or officer under levy.* The Department of the Treasury will pay (but not reissue) a savings bond to the purchaser at a sale under a levy or to the officer authorized under appropriate process to levy upon property of the registered owner or coowner to satisfy a money judgment. Payment will be made only to the extent necessary to satisfy the money judgment. The amount paid is limited to the redemption value 60 days after the termination of the judicial proceedings. Payment of a bond registered in coownership form pursuant to a judgment or a levy against only one coowner is limited to the extent of that coowner's interest in the bond. That interest must be established by an agreement between the coowners or by a judgment, decree, or order of a court in a proceeding to which both coowners are parties.

(b) *Trustee in bankruptcy, receiver, or similar court officer.* The Department of the Treasury will pay, at current redemption value, a savings bond to a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar court officer under the provisions of paragraph (a) of this section.

§ 353.22 Payment or reissue pursuant to judgment.

(a) *Divorce.* The Department of the Treasury will recognize a divorce decree that ratifies or confirms a property settlement agreement disposing of bonds or that otherwise settles the interests of parties in a bond. Reissue of a savings bond may be made to eliminate the name of one spouse as owner, coowner, or beneficiary or to substitute the name of one spouse for that of the other spouse as owner, coowner, or beneficiary pursuant to the decree. However, if the bond is registered in the name of one spouse with another person as coowner, there must be submitted either (1) a request for reissue by the other person or (2) a certified copy of a judgment, decree, or court order entered in proceedings to which the other person and the spouse named on the bond are parties, determining the extent of the interest of that spouse in the bond. Reissue will be permitted only to the extent of that spouse's interest. The evidence required under § 353.23 must be submitted in every case. When the divorce decree does not set out the terms of the property settlement agreement, a certified copy of the agreement must be submitted. Payment, rather than reissue, will be made if requested.

(b) *Gift causa mortis.* A savings bond belonging solely to one individual will be paid or reissued at the request of the person found by a court to be entitled by reason of a gift causa mortis from the sole owner.

(c) *Date for determining rights.* When payment or reissue under this section is to be made, the rights of the parties will be those existing under the regulations current at the time of the entry of the final judgment, decree, or court order.

§ 353.23 Evidence.

(a) *General.* To establish the validity of judicial proceedings, certified copies of the final judgment, decree, or court order, and of any necessary supplementary proceedings, must be submitted. If the judgment, decree, or court order was rendered more than six months prior to the presentation of the bond, there must also be submitted a certification from the clerk of the court, under court seal, dated within six months of the presentation of the bond, showing that the judgment, decree, or court order is in full force.

(b) *Trustee in bankruptcy or receiver of an insolvent's estate.* A request for payment by a trustee in bankruptcy or a receiver of an insolvent's estate must be supported by appropriate evidence of appointment and qualification. The evidence must be certified by the clerk of the court, under court seal, as being in full force on a date that is not more than six months prior to the presentation of the bond.

(c) *Receiver in equity or similar court officer.* A request for payment by a receiver in equity or a similar court officer, other than a receiver of an insolvent's estate, must be supported by a copy of an order that authorizes the presentation of the bond for redemption, certified by the clerk of the court, under court seal, as being in full force on a date that is not more than six months prior to the presentation of the bond.

Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bond

§ 353.25 General.

Relief, by the issue of a substitute bond or by payment, is authorized for the loss, theft, destruction, mutilation, or defacement of a bond after receipt by the owner or his representative. As a condition for granting relief, the Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may require a bond of indemnity, in the form and with the surety, or security, he considers necessary to protect the interests of the

United States. In all cases the savings bond must be identified by serial number and the applicant must submit satisfactory evidence of the loss, theft, or destruction, or a satisfactory explanation of the mutilation or defacement.

§ 353.26 Application for relief—after receipt of bond.

(a) If the serial numbers of the lost, stolen, or destroyed bonds are known, the claimant should execute an application for relief on the appropriate form and submit it to the Bureau of the Public Debt, Parkersburg, West Virginia 26101.

(b) If the bond serial numbers are not known, the claimant must provide sufficient information to enable the Bureau of the Public Debt to identify the bond by serial number. See § 353.29(c). The Bureau will furnish the proper application form and instructions.

(c) If applicable, a defaced bond and all available fragments of a mutilated bond should be submitted to the Bureau.

(d) The application must be made by the person or persons (including both coowners, if living) authorized under these regulations to request payment of their bonds. In addition:

(1) If the bond is in beneficiary form and the owner and beneficiary are both living, both will ordinarily be required to join the application.

(2) If a minor named on a bond as owner, coowner, or beneficiary is not of sufficient competency and understanding to request payment, both parents will ordinarily be required to join in the application.

§ 353.27 Application for relief—nonreceipt of bond.

If a bond issued on any transaction is not received, the issuing agent must be notified as promptly as possible and given all information available about the nonreceipt. An appropriate form and instructions will be provided. If the application is approved, relief will be granted by the issuance of a bond bearing the same issue date as the bond that was not received.

§ 353.28 Recovery or receipt of bond before or after relief is granted

(a) If a bond reported lost, stolen, destroyed, or not received, is recovered or received before relief is granted, the Bureau of the Public Debt, Parkersburg, West Virginia 26101, must be notified promptly.

(b) A bond for which relief has been granted is the property of the United States and, if recovered, must be promptly submitted to the Bureau of the Public Debt, Parkersburg, West Virginia 26101, for retirement.

***§ 353.29 Adjudication of claims.**

(a) *General.* The Bureau of the Public Debt will adjudicate claims for lost, stolen or destroyed bonds on the basis of records created and regularly maintained in the ordinary course of business.

(b) *Claims filed 10 years after payment.* A bond for which no claim has been filed within 10 years of the recorded date of redemption will be presumed to have been properly paid. If a claim is subsequently filed and disallowed, a photographic copy of the bond will not be available to support the disallowance.

(c) *Claims filed six years after final maturity.* No claim filed six years or more after the final maturity of a savings bond will be entertained unless the claimant supplies the serial number of the bond.

Subpart G—Interest

§ 353.30 Series EE bonds.

Series EE bonds are issued at a discount. The accrued interest is added to the issue price at stated intervals and is payable only at redemption as part of the redemption value. Information regarding interest rates and redemption values is found in Department of the Treasury Circular, Public Debt Series No. 1-80 (31 CFR, Part 351).

§ 353.31 Series HH bonds.

(a) *General.* Series HH bonds are current-income bonds issued at par (face amount). Interest on a Series HH bond is paid semiannually by check, beginning six months from issue date. Interest ceases at maturity, or, if a bond is redeemed before maturity, as of the end of the preceding interest payment period. For example, if a bond on which interest is payable on January 1 and July 1 is redeemed on September 1, interest ceases as of the preceding July 1, and no adjustment of interest will be made for the period from July 1 to September 1. However, if the date of redemption falls on an interest payment date, interest ceases on that date. Information regarding interest rates is found in Department of the Treasury Circular, Public Debt Series 2-80 (31 CFR, Part 352).

(b) *Redemption value.* Series HH bonds acquired in an authorized exchange or reinvestment are redeemable at face amount. An interest adjustment will be made upon redemption of Series HH bonds purchased for cash, if redeemed within a limited period of time after issue; if held beyond this period, they are redeemable at face amount. Information as to the

amount of the interest adjustment and the time period to which it applies is found in Department of the Treasury Circular, Public Debt Series No. 2-80 (31 CFR, Part 352).

(c) *Payment of interest.* Series HH bond interest accounts are maintained by the Bureau of the Public Debt, Parkersburg, West Virginia 26101. Interest will be paid on each interest payment date by check mailed to the address specified for the delivery of checks in the purchase application, notification of change of address or request for reissue. If no instruction is given as to the delivery of interest checks, the address inscribed on the bond for the owner or the first-named coowner will be used.

(d) *Delivery of interest.*

(1) *Notices affecting delivery of interest checks.* To insure appropriate action, notices affecting the delivery of interest checks on Series HH bonds, including changes of addresses, must be received by that office at least one month prior to the interest payment date. Each notice must identify the bonds by the name and taxpayer identifying number of the bondowner. The notice must be signed by the owner or coowner, or, in the case of a minor or incompetent, as provided in paragraph (e) or (f) of this section.

(2) *Owner or coowner deceased.*

(i) *Sole owner.* Upon receipt of notice of death of the owner of a bond, payment of interest on the bond will be suspended until satisfactory evidence is submitted as to who is authorized to endorse and collect interest checks on behalf of the estate of the decedent, in accordance with the provisions of Subpart L.

(ii) *Coowner.* Upon receipt of notice of the death of the coowner to whom interest is being mailed, payment of interest will be suspended until a request for change of address is received from the other coowner, if living, or, if not, until satisfactory evidence is submitted as to the individual who is authorized to endorse and collect interest checks on behalf of the estate of the last deceased coowner, in accordance with the provisions of Subpart L.

(iii) *Owner with beneficiary.* In the case of a bond registered in the form "A payable on death to B" the check will be drawn to the order of "A" alone unless the Bureau of the Public Debt, Parkersburg, West Virginia 26101, receives notice of A's death. In that event, the payment of interest will be suspended until the bond is presented for payment or reissue. Interest so

withheld will be paid to the persons entitled to the bond.

(e) *Representative appointed for the estate of a minor, incompetent, absentee, et al.* Interest on Series HH bonds is paid in accordance with the provisions of § 353.60 to the representative appointed for the estate of an owner who is a minor, incompetent, absentee, et al. If the registration of the bonds does not include reference to the owner's status, the bonds should be submitted for reissue to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Parkersburg, West Virginia 26101, so that interest checks may be properly drawn and delivered. They must be accompanied by the proof of appointment required by § 353.60.

(f) *Adult incompetent's estate having no representative.* If an adult owner of a Series HH bond is incompetent to endorse and collect the interest checks and no legal guardian or similar representative has been appointed to act for him, the relative, or other person, responsible for his care and support, may apply to the Bureau of the Public Debt for recognition as voluntary guardian for the purpose of receiving, endorsing, and collecting the checks.

(g) *Reissue during interest period.* Physical reissue of a Series HH bond will be made without regard to interest payment dates. The Series HH interest accounts maintained by the Bureau of the Public Debt will be closed in the first week of the month preceding each interest payment date. Interest checks will be drawn to the order of the persons shown to be entitled on these accounts as of the date the accounts are closed.

(h) *Endorsement of checks.* Interest checks must be endorsed in accordance with the regulations governing the endorsement and payment of Government warrants and checks, which are contained in Department of the Treasury Circular No. 21, current revision (31 CFR, Part 240).

(1) *Nonreceipt or loss of check.* If an interest check is not received or is lost after receipt, the Bureau of the Public Debt, Parkersburg, West Virginia 26101, should be notified and advised of the bond serial number, the inscription of the bond, including the taxpayer identifying number of the bondowner, and the interest payment date.

Subpart H—General Provisions for Payment

§ 353.35 Payment (redemption).

(a) *General.* Payment of a savings bond will be made to the person or persons entitled under the provisions of

these regulations, except that checks in payment will not be delivered to addresses in areas with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States. See Department of the Treasury Circular No. 655, current revision (31 CFR, Part 211). Payment will be made without regard to any notice of adverse claims to a bond and no stoppage or caveat against payment of a bond will be entered.

(b) *Series EE.* A Series EE bond will be paid at any time after six months from issue date at the current redemption value shown in Department of the Treasury Circular, Public Debt Series No. 1-80 (31 CFR, Part 351).

(c) *Series HH.* A Series HH bond will be paid at any time after six months from issue date. A Series HH bond issued in an authorized exchange or reinvestment transaction will be paid at face amount. A Series HH bond issued for cash will be paid at the current redemption value shown in Department of the Treasury Circular, Public Debt Series No. 2-80 (31 CFR, Part 352). If the bond is redeemed at less than face value, the difference represents an adjustment of interest. A Series HH bond received during the month preceding an interest payment date will not be paid until that date.

§ 353.36 Payment during life of sole owner.

A savings bond registered in single ownership form (i.e., without a coowner or beneficiary) will be paid to the owner during his lifetime upon surrender with an appropriate request.

§ 353.37 Payment during lives of both coowners.

A savings bond registered in coownership form will be paid to either coowner upon surrender with an appropriate request, and upon payment (as determined in Sec. 353.43), the other coowner will cease to have any interest in the bond. If both coowners request payment, payment will be made by check, drawn in the form, "John A. Jones and Mary C. Jones".

§ 353.38 Payment during lifetime of owner or beneficiary bond.

A savings bond registered in beneficiary form will be paid to the registered owner during his lifetime upon surrender with an appropriate request. Upon payment (as determined in § 353.43) the beneficiary will cease to have any interest in the bond.

§ 353.39 Surrender for payment.

(a) *Procedure for bonds of series EE, in the names of individual owners or coowners only.* An individual who is the owner or coowner of a bond may present the bond to an authorized paying agent for redemption. The presenter must be prepared to establish his or her identity in accordance with Treasury instructions and identification guidelines. The owner or coowner must sign the request for payment on the bond or, if authorized, on a separate detached request, and add his or her address. Even though the request for payment may have been signed, or signed and certified, before presentation of the bond, the paying agent must be satisfied that the person presenting the bond for payment is the owner or coowner and may require the person to sign the request for payment again. If the bond is in order for payment, the paying agent will make immediate payment at the current redemption value without charge to the presenter. Paying agents are not authorized to process any case involving partial redemption or any case in which documentary evidence is required.

(b) *Procedure for all other cases.* In the case of bonds not subject to the procedure in paragraph (a), the owner or coowner, or other person entitled to payment, must appear before an officer authorized to certify requests for payment, establish his or her identity, and sign the request for payment. See Subpart J. If a check is to be issued, the address to which the check is to be mailed should be noted either in the space provided in the request for payment or in accompanying instructions. The bond must be forwarded to a Federal Reserve Bank or Branch or the Bureau of the Public Debt. Usually, payment will be expedited by submission to a Federal Reserve Bank or Branch. In all cases, the cost and risk of presentation of a bond will be borne by the owner. Payment will be made by check drawn to the order of the registered owner or other person entitled and will be mailed to the address requested.

(c) *Date of request.* Requests executed more than six months before the date of receipt of a bond for payment will not be accepted. Neither will a bond be accepted if payment is requested as of a date more than three months in the future.

§ 353.40 Special provisions for payment.

(a) *Owner's signature not required.* The owner's signature is not required, if the bond is paid by a paying agent or a Federal Reserve Bank under the

provisions of Department of the Treasury Circular No. 888, current revision (31 CFR, Part 330).

(b) *Signature by mark.* A signature by mark (X) must be witnessed by at least one disinterested person and a certifying officer, see Subpart J. The witness must attest to the signature by mark substantially as follows: "Witness to signature by mark," followed by his or her signature and address.

(c) *Name change.* If the name of the owner, coowner, or other person entitled to payment, as it appears in the registration or in evidence on file in the bureau of the Public Debt, has been changed in any legal manner, the signature to the request for payment must show both names and the manner in which the change was made; for example, "Mary T. Jones Smith (Mary T. J. Smith or Mary T. Smith) changed by marriage from Mary T. Jones", or "John R. Young, changed by order of court from Hans R. Jung". See § 353.50.

(d) *Attorneys-in-fact.* A request for payment signed by an attorney-in-fact will be recognized if it is accompanied by a copy of a power of attorney, executed before a certifying officer, that authorizes the attorney-in-fact to sell or redeem the grantor's Treasury securities.

§ 353.41 Partial redemption

A bond of series EE or HH may be redeemed in part at current redemption value, but only in amounts corresponding to authorized denominations, upon surrender of the bond to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt in accordance with § 353.39(b). In any case in which partial redemption is requested, the phrase "to the extent of \$ (face amount) and reissue of the remainder" should be added to the request. Upon partial redemption of the bond, the remainder will be reissued as of the original issue date, as provided in Subpart I.

§ 353.42 Nonreceipt or loss of check issued in payment.

If a check in payment of a bond surrendered for redemption is not received within a reasonable time or is lost after receipt, notice should be given to the same agency to which the bond was surrendered for payment. The notice should give the date the bond was surrendered for payment, and describe the bond by series, denomination, serial number, and registration, including the taxpayer identifying number of the owner.

§ 353.43 Effective date of request for payment.

The Department of the Treasury will treat the receipt of a bond with an appropriate request for payment by (a) a Federal Reserve Bank or Branch, (b) the Bureau of the Public Debt, or (c) a paying agent authorized to pay that bond, as the date upon which the rights of the parties are fixed for the purpose of payment.

§ 353.44 Withdrawal of request for payment.

(a) *Withdrawal by owner or coowner.*

An owner or coowner, who has surrendered a bond to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt or an authorized paying agent with an appropriate request for payment, may withdraw the request if notice of intent to withdraw is received by the same agency prior to payment either in cash or through the issuance of the redemption check.

(b) *Withdrawal on behalf of deceased owner or incompetent.*

A request for payment may be withdrawn under the same conditions as in paragraph (a) of this section by the executor or administrator of the estate of a deceased owner or by the person or persons who would have been entitled to the bond under Subpart L, or by the legal representative of the estate of a person under legal disability, unless surrender of the bond for payment has eliminated the interest of a surviving coowner or beneficiary. See § 353.70(b) and (c).

Subpart I—Reissue and Denominational Exchange

§ 353.45 General.

Reissue of a bond may be made only under the conditions specified in these regulations, and only at (a) a Federal Reserve Bank or Branch, or (b) the Bureau of the Public Debt. Reissue will not be made if the request is received less than one full calendar month before the final maturity date of a bond. The request, however, will be effective to establish ownership as though the requested reissue had been made.

§ 353.46 Effective date of request for reissue.

The Department of the Treasury will treat the receipt by (a) a Federal Reserve Bank or Branch or (b) the Bureau of the Public Debt of a bond and an acceptable request for reissue as determining the date upon which the rights of the parties are fixed for the purpose of reissue. For example, if the owner or either coowner of a bond dies after the bond has been surrendered for

reissue, the bond will be regarded as having been reissued in the decedent's lifetime.

§ 353.47 Authorized reissue—during lifetime.

A bond belonging to an individual may be reissued in any authorized form of registration upon an appropriate request for the purpose outlined below.

(a) *Single ownership.* A bond registered in single ownership form may be reissued—

(1) To add a coowner or beneficiary;

(2) To name a new owner, with or without a coowner or beneficiary, but only if (i) the new owner is related to the previous owner by blood or marriage, (ii) the previous owner and the new owner are parties to a divorce or annulment, (iii) the new sole owner is the trustee of a personal trust estate which was created by the previous owner or which designates as beneficiary either the previous owner or a person related to him or her by blood or marriage.

(b) *Coownership.*

(1) *General.* A bond registered in coownership form may be reissued in the name of a third person related by blood or marriage to either coowner. If desired, the new bond may be inscribed with the name of one of the previous coowners or another individual as either coowner or beneficiary.

(2) *Personal trust estate.* A bond registered in coownership form may be reissued to name a trustee of a personal trust estate created by either coowner or by some other person if (i) either coowner is a beneficiary of the trust, or (ii) a beneficiary of the trust is related by blood or marriage to either coowner.

(3) *Marriage, divorce, annulment, or coowners related to each other.* A bond registered in coownership form may be reissued to name either coowner alone or with another individual as coowner or beneficiary if—

(i) Either coowner has married;

(ii) Married coowners are divorced, legally separated, or their marriage is annulled; or

(iii) Both coowners are related by blood or marriage to each other.

(c) *Beneficiary.* Bonds registered in beneficiary form may be reissued to name the beneficiary as coowner, to substitute another individual as beneficiary, to eliminate the beneficiary, and, if the beneficiary is eliminated, to effect any of the reissue authorized by paragraph (a) of this section.

§ 353.48 Restrictions on reissue.

(a) *Denominational exchange.* Reissue is not permitted solely to change denominations.

(b) *United States Treasury.* Reissue may not be made to eliminate the United States Treasury as coowner.

§ 353.49 Correction of errors.

A bond may be reissued to correct an error in registration upon appropriate request supported by satisfactory proof of the error.

§ 353.50 Change of name.

An owner, coowner, or beneficiary whose name is changed by marriage, divorce, annulment, order of court, or in any other legal manner after the issue of a bond should submit the bond with a request for reissue to substitute the new name for the name inscribed on the bond. Documentary evidence may be required in any appropriate case.

§ 353.51 Requests for reissue.

A request for reissue of bonds in coownership form must be signed by both coowners, except that a request solely to eliminate the name of one coowner may be signed by that coowner only. A bond registered in beneficiary form may be reissued upon the request of the owner, without the consent of the beneficiary. Public Debt forms are available for requesting reissue.

Subpart J—Certifying Officers**§ 353.55 Individuals authorized to certify.**

The following individuals are authorized to act as certifying officers for the purpose of certifying a request for payment, or a signature to a Public Debt form:

(a) Officers generally authorized.

(1) *At banks, trust companies, and member organizations of the Federal Home Bank System.*

(i) Any officer of a bank incorporated in the United States, the territories or possessions of the United States, or the Commonwealth of Puerto Rico.

(ii) Any officer of a trust company incorporated in the United States, the territories or possessions of the United States, or the Commonwealth of Puerto Rico.

(iii) Any officer of an organization that is a member of the Federal Home Loan Bank System. This includes Federal savings and loan associations.

(iv) Any officer of a foreign branch or a domestic branch of an institution indicated in paragraph (a)(1) (i) through (iii).

(v) Any officer of a Federal Reserve Bank, a Federal Land Bank, or a Federal Home Loan Bank.

(vi) Any employee of an institution indicated in paragraph (a)(1) (i) through (v), who is expressly authorized to certify by the institution.

Certification by these officers or designated employees must be authenticated by a legible imprint of either the corporate seal of the institution or of the issuing or paying agent's stamp. The employee expressly authorized to certify by an institution must sign his name over the title "Designated Employee".

(2) *At issuing agents that are not banks or trust companies.* Any officer of an organization, not a bank or a trust company, that is qualified as an issuing agent for bonds of Series EE. The agent's stamp must be imprinted in the certification.

(3) *By United States officials.* Any judge, clerk, or deputy clerk of a United States court, including United States courts for the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the Canal Zone; any United States Commissioner, United States Attorney, or United States Collector of Customs, including their deputies; in the Internal Revenue Service, any Regional Commissioner, District Director, Service Center Director, or Internal Revenue agent.

(b) Officers with limited authority.

(1) *In the Armed Forces.* Any commissioned officer or warrant officer of the Armed Forces of the United States, but only for members of the respective services, their families, and civilian employees at posts, bases, or stations. The certifying officer must indicate his rank and state that the individual signing the request is one of the class whose request the certifying officer is authorized to certify.

(2) *At the Veterans Administration, Federal penal institutions, and United States Public Health Service hospitals.* Any officer in charge of a home, hospital, or other facility of the Veterans Administration, but only for the patients, or employees of the facility; any officer of a Federal penal institution or a United States Public Health Service hospital expressly authorized to certify by the Secretary of the Treasury or his designee, but only for the inmates, patients or employees of the institution involved. Officers of Veterans Administration facilities, Federal penal institutions, and Public Health Service hospitals must use the stamp or seal of the particular institution or service.

(c) *Authorized officers in foreign countries.* Any United States diplomatic or consular representative, or the officer of a foreign branch of a bank or trust company incorporated in the United

States whose signature is attested by an imprint of the corporate seal or is certified to the Department of the Treasury. If none of these individuals is available, a notary public or other officer authorized to administer oaths may certify, but his official character and jurisdiction must be certified by a United States diplomatic or consular officer under seal of his office.

(d) *Authorized officers in particular localities.* The Governor and the Treasurer of Puerto Rico; the Governor and the Commissioner of Finance of the Virgin Islands; the Governor and the Director of Finance of Guam; the Governor and the Director of Administrative Services of American Samoa; or designated officers of the Panama Canal Commission.

(e) *Special provisions.* If no certifying officer is readily accessible, the Commissioner of the Public Debt, Deputy Commissioner, any Assistant Commissioner, or other designated official of the Bureau or of a Federal Reserve Bank or Branch is authorized to make special provision for any particular case.

§ 353.56 General instructions and liability.**(a) The certifying officer must:**

(1) Require the person presenting a bond, or an appropriate Public Debt transaction form, to establish his identity in accordance with Department of the Treasury instructions and identification guidelines;

(2) Place a notation on the back of the bond or on the appropriate Public Debt transaction form, or in a separate record, showing exactly how identification was established; and

(3) Affix, as part of the certification, his official signature, title, seal or issuing or paying agent's stamp, address, and the date of execution.

(b) The certifying officer and, if such person is an officer or an employee of an organization, the organization will be held fully responsible for the adequacy of the identification.

§ 353.57 When a certifying officer may not certify.

Certifying officers may not certify the requests for payment of bonds, or appropriate Public Debt transaction forms if, in their own right or in a representative capacity, they

(a) Have an interest in the bonds, or

(b) Will, by virtue of the requests being certified, acquire an interest in the bonds.

Subpart K—Minors, Incompetents, Aged Persons, Absentees, et al.

§ 353.60 Payment to representative of an estate.

(a) The representative of an estate of an owner who is a minor, an aged person, incompetent, absentee, et al., may receive payment upon request:

(1) If the registration shows the name and capacity of the representative;

(2) If the registration shows the capacity but not the name of the representative and the request is accompanied by appropriate evidence; or

(3) If the registration includes neither the name of the representative nor his capacity but the request is accompanied by appropriate evidence.

(b) Appropriate evidence for paragraphs (a)(2) and (a)(3) of this section includes a certified copy of the letters of appointment or, if the representative is not appointed by a court, other proof of qualification. Except in the case of corporate fiduciaries, the evidence must show that the appointment is in full force and be dated not more than one year prior to the presentation of the bond for payment. The request for payment appearing on the back of a bond must be signed by the representative as such, for example, "John S. Jones, guardian (committee) of the estate of Henry W. Smith, a minor (an incompetent)".

§ 353.61 Payment after death.

After the death of the ward, and at any time prior to the representative's discharge, the representative of the estate will be entitled to obtain payment of a bond to which the ward was solely entitled.

§ 353.62 Payment to minors.

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of the minor's estate, payment will be made to the minor upon his request, provided the minor is of sufficient competency to sign the request for payment and to understand the nature of the transaction. In general, the fact that the request for payment has been signed by a minor and certified will be accepted as sufficient proof of competency and understanding.

§ 353.63 Payment to a parent or other person on behalf of a minor.

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his estate, and if the minor is not of sufficient competency to sign the request for payment and to

understand the nature of the transaction, payment will be made to either parent with whom the minor resides or to whom legal custody has been granted. If the minor does not reside with either parent, payment will be made to the person who furnishes the chief support for the minor. The request must appear on the back of the bond in one of the following forms:

(a) Request by parent.

I certify that I am the mother of John C. Jones (with whom he resides) (to whom legal custody has been granted). He is — years of age and is not of sufficient understanding to make this request.

Mary Jones on behalf of John C. Jones

(b) Request by other person.

I certify that John C. Jones does not reside with either parent and that I furnish his chief support. He is — years of age and is not of sufficient understanding to make this request.

Alice Brown, grandmother, on behalf of John C. Jones

§ 353.64 Payment, reinvestment, or exchange—voluntary guardian of an incompetent.

When an adult owner of bonds is incapable of requesting payment and there is no other person legally qualified to do so, the relative or other person responsible for the owner's care and support may submit an application for recognition as voluntary guardian for the purpose of redeeming the bonds in the following situations:

(a) The proceeds of the bonds are needed to pay expenses already incurred, or to be incurred during any 90-day period, for the support of the incompetent or his legal dependents.

(b) If the bonds have finally matured and it is desired to redeem them and reinvest the proceeds in other savings bonds, the new bonds must be registered in the name of the incompetent, followed by words showing he is under voluntary guardianship; for example, "John Jones 123-45-6789, under voluntary guardianship". A living coowner or beneficiary named on the matured bonds must be designated on the new bonds unless the named person furnishes a certified statement consenting to omission of his name. If an amount insufficient to purchase an additional bond of any authorized denomination of either series remains after the reinvestment, the voluntary guardian may furnish additional funds sufficient to purchase another bond of either series in the lowest available denomination. If additional funds are not furnished, the remaining amount will be paid to the voluntary guardian for the use and benefit of the incompetent. The

provisions for reinvestment of the proceeds of matured bonds are equally applicable to any authorized exchange of bonds of one series for those of another.

§ 353.65 Payment—attorney-in-fact of an incompetent or a physically disabled person.

A request for payment by an individual as attorney-in-fact of an incompetent or a physically disabled owner will be honored if the power of attorney grants the attorney-in-fact authority to sell or redeem the grantor's securities, sell his personal property, or otherwise grants similar authority. The power of attorney must provide that the grantor's subsequent incapacity will not affect the authority granted. The request must be supported by a copy of the power of attorney and evidence of the incapacity of the grantor.

§ 353.66 Reissue.

A bond on which a minor or other person under legal disability is named as the owner or coowner, or in which he has an interest, may be reissued under the following conditions:

(a) A minor for whose estate no representative has been appointed may request reissue if the minor is of sufficient competency to sign his name to the request and to understand the nature of the transaction.

(b) A bond on which a minor is named as beneficiary or coowner may be reissued in the name of a custodian for the minor under a statute authorizing gifts to minors upon the request of the adult whose name appears on the bond as owner or coowner.

(c) A minor coowner for whose estate no representative has been appointed, may be named sole owner upon the request of the competent coowner.

(d) Reissue to eliminate the name of a minor or incompetent for whose estate a legal representative has been appointed is permitted only if supported by evidence that a court has authorized the representative of the minor's or incompetent's estate to request the reissue. See § 353.23.

Except to the extent provided in paragraphs (a) through (d), above, reissue will be restricted to a form of registration which does not adversely affect the existing ownership or interest of a minor who is not of sufficient understanding to make a request, or other person under legal disability. Requests for reissue should be executed by the person authorized to request payment under §§ 353.60 and 353.63, or who may request recognition as voluntary guardian under § 353.64.

Subpart L—Deceased Owner, Coowner, or Beneficiary**§ 353.70 General rules governing entitlement.**

The following rules govern ownership or entitlement where one or both of the persons named on a bond have died without the bond having been surrendered for payment or reissue:

(a) *Single owner bond.* If the owner of a bond registered in single ownership form has died, the bond becomes the property of that decedent's estate, and payment or reissue will be made as provided in this Subpart.

(b) *Coowner bond.*

(1) *One coowner deceased.* If one of the coowners named on a bond has died, the surviving coowner will be recognized as its sole and absolute owner, and payment or reissue will be made as though the bond were registered in the name of the survivor alone. Any request for reissue by the surviving coowner must be supported by proof of death of the other coowner.

(2) *Both coowners deceased.* If both coowners name on a bond have died, the bond becomes the property of the estate of the coowner who died last, and payment or reissue will be made as if the bond were registered in the name of the last deceased coowner alone. Proof of death of both coowners will be required to establish the order of death.

(3) *Simultaneous death of both coowners.* If both coowners die under conditions where it cannot be established, either by presumption of law or otherwise, which coowner died first, the bond becomes the property of both equally, and the payment or reissue will be made accordingly.

(c) *Beneficiary bond.*

(1) *Owner deceased.* If the owner of a bond registered in beneficiary form has died and is survived by the beneficiary, upon proof of death of the owner, the beneficiary will be recognized as the sole and absolute owner of the bond. Payment or reissue will be made as though the bond were registered in the survivor's name alone. Any request for reissue by the beneficiary must be supported by proof of death of the owner.

(2) *Beneficiary deceased.* If the beneficiary's death occurs before, or simultaneous with, that of the registered owner, payment or reissue will be made as though the bond were registered in the owner's name alone. Proof of death of the owner and beneficiary is required to establish the order of death.

(d) *Nonresident aliens.* If the person who becomes entitled to a bond because of the death of an owner is an alien who

is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States or its agencies or instrumentalities, delivery of the redemption check will not be made so long as the restriction applies. See Department of the Treasury Circular No. 655, current revision (31 CFR, Part 211).

§ 353.71 Estate administered.

(a) *During administration.* The legal representative of an estate may request payment of bonds, including interest or redemption checks, belonging to the estate or may have the bonds reissued in the names of the persons entitled to share in the estate under the following conditions:

(1) When there is more than one legal representative, all must join in the request for payment or reissue, unless § 353.75(a)(1) or (b) applies.

(2) The request for payment or reissue must be signed in the form: "John A. Jones, administrator of the estate (or executor of the will) of Henry M. Jones, deceased". The request must be supported by evidence of the legal representative's authority in the form of a court certificate or a certified copy of the legal representative's letters of appointment which must be dated within six months of the date of presentation of the bond, unless the evidence shows that the appointment was made within one year prior to the presentation of the bond.

(3) For reissue, the legal representative must certify that each person in whose name reissue is requested is entitled to the extent specified and must certify that each person has consented to the reissue. If a person in whose name reissue is requested desires to name a coowner or beneficiary, the person must execute and additional request for reissue on the appropriate form.

(b) *After administration.* If the estate of the decedent has been settled through judicial proceedings, the bond and interest and redemption checks will be paid, or the bond will be reissued, upon the request of the person shown to be entitled by the court order. The request must be supported by a certified copy of the legal representative's court-approved final account, the decree of distribution, or other pertinent court records. If two or more persons have an interest in the bond, they must enter into an agreement concerning the bond's disposition. If the person entitled desires to name a coowner or beneficiary, a separate request must be made on an appropriate form.

(c) *Special provisions for small amounts.* Special procedures are available for establishing entitlement to, or effecting disposition of, savings bonds and interest and redemption checks if the aggregate face amount, excluding interest checks, does not exceed \$1,000.

§ 353.72 Estate not administered.

(a) *Special State law provisions.* A request for payment or reissue of a bond by the person who has qualified under State law to receive or distribute the assets of a decedent's estate will be accepted, provided evidence of the person's authority is submitted.

(b) *Agreement of persons entitled.* If there is no legal representative for the estate of a decedent, the bonds will be paid to, or reissued in the name of, the persons entitled pursuant to an agreement and request executed by all persons entitled to share in the decedent's personal estate. If the persons entitled to share in the decedent's personal estate include minors or incompetents, payment or reissue of the bonds must be made to them or in their names unless their interest in the bonds is otherwise protected.

(c) *Creditors.* An institutional creditor of a deceased owner's estate is entitled to payment only to the extent of its claim.

(d) *Special provisions for payment of small amounts—survivors of the decedent.*

(1) If the redemption value of the bond does not exceed \$500 and there is no legal representative of the deceased owner's estate, the bond will be paid upon the request of the person who paid the burial expenses and who has not been reimbursed.

(2) If there is no legal representative of the estate of a decedent who dies without a will, and the total face amount of bonds in the estate does not exceed \$1,000 (face amount), the bonds may be paid to the decedent's survivors upon request in the following order of precedence:

- (i) Surviving spouse;
- (ii) If no surviving spouse, to the child or children of the decedent, and the descendants of deceased children by representation;
- (iii) If none of the above, to the parents of the decedent, or the survivor;
- (iv) If none of the above, to the brothers and sisters, and the descendants of deceased brothers or sisters by representation;
- (v) If none of the above, to other next-of-kin, as determined by the laws of the owner's domicile at death;

(vi) If none of the above, to persons related to the decedent by marriage.

The payment pursuant to this subsection shall be made upon the request and agreement of the survivor to receive the redemption proceeds individually and for the account of any persons entitled. Interest checks held for the estate of a decedent will be distributed with the bonds.

Subpart M—Fiduciaries

§ 353.75 Payment or reissue during the existence of the fiduciary estate.

(a) *Payment or reissue before maturity.*

(1) *Request from the fiduciary named in the registration.* A request for reissue or payment prior to maturity must be signed by all of the fiduciaries unless by statute, decree of court, or the terms of the governing instrument, any lesser number may properly execute the request. If the fiduciaries named in the registration are still acting, no further evidence will be required. In other cases, evidence to support the request will be required, as specified:

(i) *Fiduciaries by title only.* If the bond is registered only in the titles, without the names, of fiduciaries not acting as a board, satisfactory evidence of their incumbency must be furnished, except in the case of bonds registered in the title of public officers as trustees.

(ii) *Boards, committees, commissions, etc.* If a bond is registered in the name of a governing body which is empowered to act as a unit, and which holds title to the property of a religious, educational, charitable or nonprofit organization or a public corporation, the request should be signed in the name of the body by an authorized person. Ordinarily, a signed and certified request will be accepted without further evidence.

(iii) *Corporate fiduciaries.* If a bond is registered in the name of a public or private corporation or a governmental body as fiduciary, the request must be signed by an authorized officer in the name of the organization as fiduciary. Ordinarily, a signed and certified request will be accepted without further evidence.

(2) *Trustee of a common trust fund.* A bond held by a financial institution in a fiduciary capacity may be reissued in the name of the institution as trustee of its common trust fund to the extent that participation in the common trust fund is authorized by law or regulation. The request for reissue should be executed by the institution and any cofiduciary.

(3) *Successor fiduciary.* If the fiduciary in whose name the bond is registered has been replaced by another

fiduciary, satisfactory evidence of successorship must be furnished.

(b) *Payment at or after final maturity.* At or after final maturity, a request for payment signed by any one or more of the fiduciaries will be accepted. Payment will be made by check drawn as the bond is registered.

§ 353.76 Payment or reissue after termination of the fiduciary estate.

A bond registered in the name or title of a fiduciary may be paid or reissued to the person who has become entitled by reason of the termination of a fiduciary estate. Requests for reissue made by a fiduciary pursuant to the termination of a fiduciary estate should be made on the appropriate form. Requests for payment or reissue by other than the fiduciary must be accompanied by evidence to show that the person has become entitled in accordance with applicable State law or otherwise. When two or more persons have become entitled, the request for payment or reissue must be signed by all of them.

§ 353.77 Exchanges by fiduciaries.

Fiduciaries are authorized to request an exchange of bonds of one series for those of another, pursuant to any applicable Department of the Treasury offering. A living coowner or beneficiary named on the bonds submitted in exchange may be retained in the same capacity on the new bonds.

Subpart N—Private Organizations (Corporations, Associations, Partnerships, etc.) and Governmental Agencies, Units, and Officers

§ 353.80 Payment to corporations or unincorporated associations.

A bond registered in the name of a private corporation or an unincorporated association will be paid to the corporation or unincorporated association upon a request for payment on its behalf by an authorized officer. The signature to the request should be in the form, for example, "The Jones Coal Company, a corporation, by John Jones, President", or "The Lotus Club, an unincorporated association, by William A. Smith, Treasurer". A request for payment so signed and certified will ordinarily be accepted without further evidence of the officer's authority.

§ 353.81 Payment to partnerships.

A bond registered in the name of an existing partnership will be paid upon a request for payment signed by a general partner. The signature to the request should be in the form, for example, "Smith and Jones, a partnership, by John Jones, a general partner". A request for

payment so signed and certified will ordinarily be accepted as sufficient evidence that the partnership is still in existence and that the person signing the request is authorized.

§ 353.82 Reissue or payment to successors of corporations, unincorporated associations, or partnerships.

A bond registered in the name of a private corporation, an unincorporated association, or a partnership which has been succeeded by another corporation, unincorporated association, or partnership by operation of law or otherwise, in any manner whereby the business or activities of the original organization are continued without substantial change, will be paid to or reissued in the name of the succeeding organization upon appropriate request on its behalf, supported by satisfactory evidence of successorship. The appropriate form should be used.

§ 353.83 Reissue or payment on dissolution of corporation or partnership.

(a) *Corporations.* A bond registered in the name of a private corporation which is in the process of dissolution will be paid to the authorized representative of the corporation upon a request for payment, supported by satisfactory evidence of the representative's authority. At the termination of dissolution proceedings, the bond may be reissued upon the request of the authorized representative in the names of those persons, other than creditors, entitled to the assets of the corporation, to the extent of their respective interests. Proof will be required that all statutory provisions governing the dissolution of the corporation have been complied with and that the persons in whose names reissue is requested are entitled and have agreed to the reissue. If the dissolution proceedings are under the direction of a court, a certified copy of an order of the court, showing the authority of the representative to make the distribution requested must be furnished.

(b) *Partnerships.* A bond registered in the name of a partnership which has been dissolved by death or withdrawal of a partner, or in any other manner

(1) Will be paid upon a request for payment by any partner or partners authorized by law to act on behalf of the dissolved partnership, or

(2) Will be paid to or reissued in the names of the persons entitled as the result of such dissolution to the extent of their respective interests, except that reissue will not be made in the names of creditors. The request must be

supported by satisfactory evidence of entitlement, including proof that the debts of the partnership have been paid or properly provided for. The appropriate form should be used.

§ 353.84 Payment to certain institutions.

A bond registered in the name of a church, hospital, home, school or similar institution, without reference in the registration to the manner in which it is organized or governed or to the manner in which title to its property is held, will be paid upon a request for payment signed on behalf of such institution by an authorized representative. A request for payment signed by a pastor of a church, superintendent of a hospital, president of a college, or by any official generally recognized as having authority to conduct the financial affairs of the particular institution will ordinarily be accepted without further proof of authority. The signature to the request should be in the form, for example, "Shriners' Hospital for Crippled Children, St. Louis, Missouri, by William A. Smith, Superintendent", or "St. Mary's Roman Catholic Church, Albany, New York, by the Rev. John Smyth, Pastor".

§ 353.85 Reissue in name of trustee or agent for reinvestment purposes.

A bond registered in the name of a religious, educational, charitable or nonprofit organization, whether or not incorporated, may be reissued in the name of a financial institution, or an individual, as trustee or agent. There must be an agreement between the organization and the trustee or agent holding funds of the organization, in whole or in part, for the purpose of investing and reinvesting the principal and paying the income to the organization. Reissue should be requested on behalf of the organization by an authorized officer using the appropriate form.

§ 353.86 Reissue upon termination of investment agency.

A bond registered in the name of a financial institution, or individual, as agent for investment purposes only, under an agreement with a religious, an educational, a charitable, or a nonprofit organization, may be reissued in the name of the organization upon termination of the agency. The former agent should request such reissue and should certify that the organization is entitled by reason of the termination of the agency. If such request and certification are not obtainable, the bond will be reissued in the name of the organization upon its own request,

supported by satisfactory evidence of the termination of the agency. The appropriate form should be used.

§ 353.87 Payment to governmental agencies, units, or their officers.

(a) *Agencies and units.* A bond registered in the name of a State, county, city, town, village, or in the name of a Federal, State, or local governmental agency, such as a board, commission, or corporation, will be paid upon a request signed in the name of the governmental agency or unit or by an authorized officer. A request for payment so signed and certified will ordinarily be accepted without further proof of the officer's authority.

(b) *Officers.* A bond registered in the official title of an officer of a governmental agency or unit will be paid upon a request for payment signed by the officer. The request for payment so signed and certified will ordinarily be accepted as proof that the person signing is the incumbent of the office.

Subpart O—Miscellaneous Provisions

§ 353.90 Waiver of regulations.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may waive or modify any provision or provisions of these regulations. He may do so in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship, (a) if such action would not be inconsistent with law or equity, (b) if it does not impair any existing rights, and (c) if he is satisfied that such action would not subject the United States to any substantial expense of liability.

§ 353.91 Additional requirements; bond of indemnity.

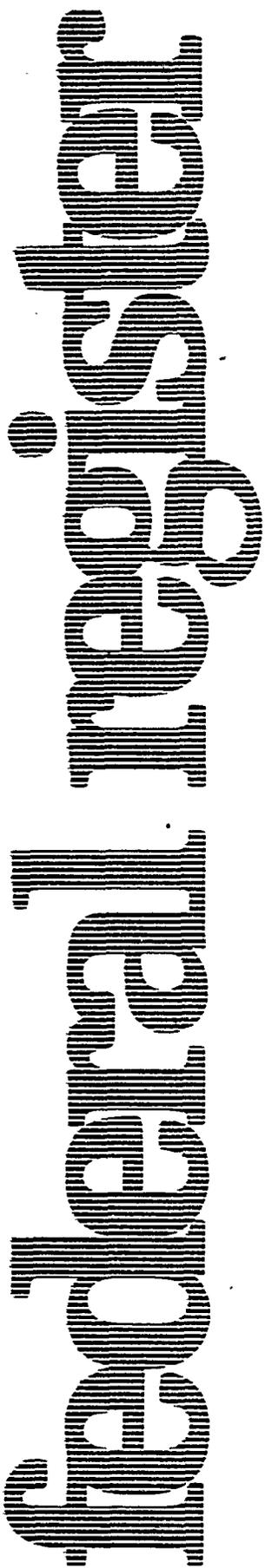
The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may require (a) such additional evidence as he may consider necessary or advisable, or (b) a bond of indemnity, with or without surety, in any case in which he may consider such a bond necessary for the protection of the interests of the United States.

§ 353.92 Supplements, amendments, or revisions.

The Secretary of the Treasury may at any time, or from time to time, prescribe additional, supplemental, amendatory, or revised rules and regulations governing United States Savings Bonds of Series EE and HH.

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Thursday
June 28, 1979



Part IX

**Department of the
Interior**

Fish and Wildlife Service

Migratory Bird Hunting

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Game Birds in Alaska and Puerto Rico and Doves and Pigeons in the Virgin Islands for the 1979-80 Season

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e. the outside limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed) from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands may select season dates for hunting certain migratory birds during the 1979-80 season. Selected season dates will then be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the Federal Register as amendments to §§ 20.101 and 20.102 of 50 CFR 20.

DATES: Effective on June 28, 1979, Season selections due from Alaska, Puerto Rico, and the Virgin Islands by July 26, 1979.

ADDRESS: Season selections from Alaska, Puerto Rico, and the Virgin Islands to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240 (202/254-3207).

SUPPLEMENTARY INFORMATION: On February 15, 1979, the Service published for public comment in the Federal Register (44 FR 9928) a proposal to amend 50 CFR 20, with a comment period ending May 16, 1979. That document dealt with the establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K of 50 CFR 20. On June 13, 1979, the Service published for comment in the Federal Register (44 FR 34082) a second document in the series consisting of a supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earliest document. In this same issue of the Federal Register, the Service is publishing for comment a third document in the series consisting

of a supplemental proposed rulemaking providing outer limits for dates and times when shooting may begin and end, and by the number of birds that may be taken and possessed for early season migratory bird hunting regulations. This final rulemaking is the fourth in a series of proposed and final rulemaking documents for migratory bird hunting regulations and deals specifically with final frameworks for the 1979-80 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands may select season dates for hunting certain migratory game birds in Alaska and Puerto Rico, and Zenaida doves and scaly-naped pigeons in the Virgin Islands.

A public hearing was held in Washington, D.C., on June 21, 1979, as announced in the Federal Registers dated February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082), and proposed hunting regulations for Alaska, Puerto Rico, and the Virgin Islands were discussed. The public was invited to participate in the hearing and/or submit written statements.

Comments on Proposing Rulemaking

Interested persons were given until June 21, 1979, to comment on the June 13 supplemental proposed rulemaking. They were also invited to participate in the June 21 public hearing.

In the supplemental proposed rulemaking published in the Federal Register dated June 13, 1979, at page 34086, the Service noted that the Virgin Islands Department of Conservation and Cultural Affairs had requested that the proposed season framework for the Zenaida dove (*Zenaida aurita*) be changed to permit hunting prior to September 1.

The Service responded by noting that the provisions of the U.S.-Canada migratory bird treaty and the Migratory Bird Treaty Act prohibit hunting of designated migratory game birds, including the Zenaida dove, between March 10 and September 1 each year. A solicitor's opinion rendered in 1976 concluded that these treaty restrictions also applied to the Virgin Islands Puerto Rico. These provisions appear to preclude consideration of the Department's request.

NEPA Consideration

The *Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds* (FES 75-54) was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR

25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement.

Endangered Species Act Consideration

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" and "by taking such action necessary to insure that actions authorized, funded, or carried out . . . do not jeopardize the continued existence of such endangered and threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated this year for Alaska, Puerto Rico, and the Virgin Islands and concluded that none of the proposals, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act or adversely modify their critical habitats or habitats that may be determined as critical in the future. Likewise, the proposed regulations are not contrary to the Service's obligation to conserve endangered and threatened species. As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. Examples of such consideration include closures of designated areas in Puerto Rico for the Puerto Rican plain pigeon (*Columba inornata wetmorei*) and the Puerto Rican parrot (*Amazona vittata*) and in Alaska for the Aleutian Canada goose (*Branta canadensis leucopareia*).

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemaking was published on February 15, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that at the period's close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the governments of Alaska, Puerto

Rico, and the Virgin Islands would have insufficient time to select their season dates, shooting hours, and bag limits; to communicate those selections to the Service; and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701-711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which officials of the Alaska Department of Fish and Game, Puerto Rico Department of Natural Resources, and the Virgin Islands Department of Conservation and Cultural Affairs may select open season dates. Upon receipt of season selections from Alaska, Puerto Rico, and the Virgin Islands officials, the Service will publish in the Federal Register final rulemaking amending 50 CFR 20.101 and 20.102 to reflect seasons, limits, and shooting hours for these areas for the 1979-80 season.

Authorship

The primary author of this final rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exception from Executive Order 12044 and 43 CFR 14 as discussed in the Federal Register dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time famous in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14

which is provided for in section 6(b)6 and §14.3(f), respectively.

Final Framework for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1979-80 (All Dates Inclusive)

Between September 1, 1979, and January 26, 1980, Alaska may select seasons on waterfowl, snipe, and cranes, subject to the following limitations:

1. Shooting hours between ½ hour before sunrise until sunset may be selected for all species.

2. Season lengths:

A. In the Pribilof and Aleutian Islands, except Unimak Island, an open season of 107 consecutive days of ducks, geese, and brant. In the Kodiak (State game management unit 8) area, an open season of 107 days for ducks, geese, and brant, and the season may be split without penalty.

B. Exception: the season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

C. In the remainder of Alaska including Unimak Island, an open season of 107 consecutive days for ducks, geese, and brant.

D. An open season for snipe concurrent with the duck season.

E. An open season for sandhill cranes concurrent with the duck season.

3. Bag and Possession Limits:

A. *Ducks*—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

B. *Geese*—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

C. *Brant*—A daily bag limit of 4 and a possession limit of 8.

D. *Snipe*—A daily bag limit of 8 and a possession limit of 16.

E. *Sandhill cranes*—A daily bag limit of 2 and a possession limit of 4.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1979-80 (All Dates Inclusive)

Doves and Pigeons. An open season of 60 days between September 1, 1979, and January 15, 1980, may be selected for hunting Zenaida, mourning and white-winged doves, and scaly-naped pigeons in Puerto Rico.

Shooting hours may extend from one-half hour before sunrise until sunset daily.

The daily bag and possession limit for doves of the species named herein is 10 singly or in the aggregate.

The daily bag and possession limit for scaly-naped pigeons is 5.

No open season is prescribed for pigeons on Mona Island in order to give the reduced population of white-crowned pigeon (*Columba Leucocephala*) a chance to recover.

No open season is prescribed for doves and pigeons on Culebra Island.

Special Closure for Protection of the Puerto Rican Parrot.

No season is prescribed for doves and pigeons in those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands lying east of Route 186 (from the town of El Verde in the north to the southernmost extent of Route 186) to the boundary of the Luquillo Experimental Forest; (2) all lands between Route 186 and Route 956 extending from an east-west line through the town of El Verde, south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to the southernmost point on Route 186; and (4) all lands within the Caribbean National Forest boundary, whether private or public lands. The purpose of these closures is to afford protection to the Puerto Rican parrot (*Amazona vittata*), presently listed as an endangered species under the Endangered Species Act of 1973.

Special Closure for Protection of the Plain Pigeon

The hunting of doves and pigeons of any species is prohibited in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on

Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Puerto Rican plain pigeon (*Columba inornata*), locally known as Paloma Sabanero, which is known to be present in the above locale in small numbers and which is listed presently as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Gallinules, and Snipe.

A season of 55 consecutive days between December 1, 1979, and January 31, 1980, may be selected for hunting ducks, coots, common gallinules and common snipe.

Shooting hours may extend from one-half hour before sunrise until sunset daily.

The limits for ducks are 4 daily and 8 in possession except that the season is closed on the ruddy duck (*Oxyura jamaicensis*) and the Bahama pintail (*Anas bahamensis*), which are protected by the Commonwealth of Puerto Rico.

The limits for coots are 6 daily and 12 in possession.

The limits for common gallinules are 6 daily and 12 in possession. The season is closed on purple gallinules (*Porphyryula martinica*.)

The limits for common snipe are 6 daily and 12 in possession.

No open season for ducks, coots, gallinules, and snipe is prescribed on Culbra Island.

Final Framework for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1979-80 (All Dates Inclusive)

Doves and Pigeons. An open season of 60 days between September 1, 1979, and January 15, 1980, may be selected for hunting Zenaida doves throughout the Virgin Islands and scaly-naped pigeons on the island of St. Thomas only.

Shooting hours may extend from one-half hour before sunrise until sunset daily.

The daily bag and possession limits are 10 Zenaida doves and 5 scaly-naped pigeons.

No open season is prescribed for waterfowl, ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Ground dove (*Columbina passerina*)—stone dove, tobacco dove. rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Issued in Washington, D.C., June 22, 1979.

Harvey K. Nelson,
Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****[50 CFR Part 20]****Proposed Frameworks for Early Season Migratory Bird Hunting Regulations**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements proposed rulemakings published in the Federal Register on February 15 and June 13, 1979, providing outside limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed in so-called early seasons for migratory bird hunting. These are hunting seasons that open prior to September 29 and include mourning doves, white-winged doves, band-tailed pigeons, woodcock, common snipe, rails, gallinules, September teal, sea ducks, an early duck season in Iowa, sandhill crane seasons and extended falconry seasons. The Service annually prescribes hunting regulations frameworks to the States for season selection purposes. The effect of this proposed rule is to facilitate establishment of early season migratory bird hunting regulations for the 1979-80 season.

DATES: Comments due by July 13, 1979.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-254-3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which may open before September 29 while late seasons may open no earlier than September 29. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves; white-winged doves; band-tailed pigeons; rails; gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; an early duck season in Iowa; sandhill cranes in North Dakota and South Dakota; doves in Hawaii; migratory game birds in Alaska,

Puerto Rico, and the Virgin Islands; and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a Federal Register document in mid-February, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, a supplemental proposed rulemaking is announced in the Federal Register in late May or early June. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the Federal Register. Using these frameworks, State conservation agencies then select hunting season dates and options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the Federal Register, becoming effective upon publication.

The regulations schedule for this year is as follows. On February 15, 1979, the Service published for public comment in the Federal Register (44 FR 9928) proposals to amend 50 CFR 20, with a comment period ending May 16, 1979. That document dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On June 13, 1979, the Service published for public comment in the Federal Register (44 FR 34082) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental proposals arising from comments received on the initial proposals, or from new information. Comment periods on the second document end as follows: June 21, 1979, for regulations proposed for Alaska, Puerto Rico, and the Virgin Islands; July 13, 1979, for proposed early season regulations; and August 20, 1979,

for late season proposals. This document is the third in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1979-80 season. Final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands are scheduled for Federal Register publication on or about June 28, 1979.

On June 21, 1979, a public hearing was held in Washington, D.C., as announced in the Federal Register of February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082), to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. Proposed hunting regulations for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; a proposal for an early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

This supplemental proposed rulemaking document consolidates a number of changes to the original framework proposals published on February 15, 1979, in the Federal Register, and as supplemented on June 13, 1979.

Review of Public Comments and the Service's Response

Forty-six comments on the Service's proposed regulations were addressed in the supplemental proposed rulemaking which appeared in the Federal Register dated June 13, 1979 (44 FR 34082). The present Federal Register proposed rulemaking summarizes comments received after the closing of the initial public comment period on May 16, 1979, and which were not taken into consideration in the above supplemental proposed rulemaking. Because the Service desires to consider all available information before finalizing its migratory bird hunting regulations, the additional comments were considered, and are responded to here.

A letter from the Oregon Department of Fish and Wildlife dated May 18, 1979, endorsed all the Service's recommendations applicable to that State. The communication recommended retention of the same hunting

frameworks for band-tailed pigeons which were in effect during the past hunting season, but noted that State regulations would reduce the daily bag and possession limits to 5 pigeons from the 8 pigeons which have been offered in recent years by Federal frameworks. A second letter from the same agency, dated June 11, 1979, contains some of the same information and an assurance that population inventories of band-tailed pigeons will be continued.

Response. In the Federal Register dated February 15, 1979, (at 44 FR 9936) the Service cautioned that it might be desirable to further restrict hunting on this species in order to afford greater protection to the Pacific Coastal population, or segments of the population which may be depressed. The Service further advised that consideration of such action would be discussed in consultations with California, Oregon, and Washington. The outgrowth of these discussions was a recommendation that the daily bag and possession limits applicable to the three States this year be set at 5 birds. Because of the desire not to unduly confuse hunters with differential State and Federal hunting regulations, the Service proposes that its framework conform to the same 5-bird limits which the three States plan to adopt under their regulations.

A letter from Arizona Game and Fish Department, dated June 18, 1979, reported upon the results of its call-count surveys of mourning dove and white-winged dove breeding populations in Arizona. Both 1978 hunting success and the recently concluded call-count survey suggest that the mourning dove population is high. Conversely, white-winged dove hunting success and harvest during the 1978 season in Arizona were at low levels. The call-count survey of breeding white-winged doves this spring also resulted in a low index. In view of this information Arizona recommended that limits be restricted and the season modified to benefit the species. However, specific recommendations on these points have not yet been received.

Response. The Service proposes to adopt the Arizona restrictions in its final frameworks in order to avoid confusion to the public which would result from differing State and Federal hunting regulations.

A letter from the New Jersey Bureau of Wildlife Management dated June 19, 1979, reported upon the status of clapper rail breeding populations and production, and recommended that no change be made in the hunting regulations for the species. The New

Jersey studies indicated that the early nesting attempts of this multibrooded species were generally successful and that prospects were good for some pairs to produce second broods.

Response. In view of the information provided, the Service concurs with the New Jersey recommendation.

The Service announced in the Federal Register dated June 13, 1979 (at 44 FR 34083) that it had under consideration a request from Iowa that it be permitted to select a portion of its regular duck hunting season within the period September 20 through September 30. Days of hunting taken during this period would be subtracted from the days allowed during the regular duck season. All ducks which may legally be taken during the regular season could be taken during the September period. The primary objective of this proposal is to provide opportunity to harvest blue-winged teal which migrate early and generally are not available in Iowa during the regular season framework. The September teal season option traditionally made available to non-production States in the Central and Mississippi Flyways has not been offered to Iowa in recent years because of its status as a waterfowl production State. The proposal included a provision that waterfowl population and harvest data for the three-year experimental period would be evaluated.

Response. The Service has given the Iowa proposal additional study and undertaken further consultations with Iowa. As a result, the Service proposes that the Iowa study be implemented this year. The early season segment would be 5 days during September 22 through 26, 1979, and the bag and possession limits applicable to the regular duck season would also apply to the September portion. The Service solicits public comments, including data and information, on this proposal. This proposal must be addressed in the early season frameworks so that if the decision is made to implement it this year, necessary administrative, legal, and management needs can be fulfilled prior to the season's opening.

Attention is now directed to information and comments received by the Service at the public hearing held on June 21, 1979, in Washington, D.C. Eight individuals made statements on behalf of private conservation organizations and State governmental agencies or associations. Charles D. Kelley, representing the Southeastern Association of Fish and Wildlife Agencies, concurred with the Service's recommendations as did Laurence R. Jahn representing the Wildlife

Management Institute. Also, John D. Newsom, representing The Wildlife Society, endorsed the Service's regulatory proposals, including the continuation of mourning dove seasons in September.

James H. Dunks, Texas Parks and Wildlife Department, recommended that 5 days of white-winged dove hunting be permitted in Texas this year. Mr. Dunks had previously given information indicating that his Department's recent surveys reflected a 30 percent population increase over 1978. The 1979 breeding population index is the third highest on record during the past 10 years.

Response. The Service notes that it has included the Texas recommendation for a five-day hunting season in the proposed frameworks.

Dr. Don Hayne, North Carolina Institute of Statistics, discussed in laymen's terms the importance of statistical procedures in surveys monitoring wildlife populations.

Response. Statistical sampling as used in various migratory bird population and harvest surveys has sometimes been the subject of considerable discussion. The Service notes that it seeks to employ the most appropriate statistical procedures in these surveys, and in the analyses of their results.

The National Audubon Society, represented by John M. Anderson, generally supported the Service's recommendations. He expressed continuing concern about the size and species composition of sandhill crane harvests in North Dakota, and that sandhill crane hunting might jeopardize whooping cranes which may be present in the hunting area.

Response. The Service notes that it is monitoring sandhill crane populations and harvests closely. Preliminary results of the sandhill crane harvest survey in North Dakota indicated that 2,771 birds were taken during the past hunting season. This figure represents a decrease of 32 percent from the 4,078 sandhill cranes harvested in North Dakota during 1977 under similar regulations. The Service does not believe that these harvest levels are excessive. Other sandhill crane investigations being conducted by the Service include population surveys of sandhill cranes during the spring, nesting and brood rearing studies in Alaska, and migration studies of radio telemetered cranes breeding in the Interlakes area of Manitoba. Final reports on a three-year field study of sandhill cranes in the Central Flyway, and statistical modeling of Central

Flyway sandhill crane populations are in publication. The Service notes that Section 20.26, titled "Emergency closures," of Subpart C, Part 20, Title 50 CFR, authorizes the Director to close or temporarily suspend any hunting seasons "Upon a finding that a continuation of such a season would constitute an imminent threat to the safety of any endangered or threatened species or other migratory bird population." In view of these considerations, the Service believes that modifications of the proposed frameworks for sandhill cranes are neither necessary nor desirable at this time.

Comments by I. B. Sinclair, representing the Committee for Dove Protection, focused on hunting regulations proposed for mourning doves, particularly seasons opening in September. He expressed concern about the loss of nesting doves to September hunting and resultant mortality of young still in nests. Additional concern was expressed about the non-biological aspects of dove hunting in September. Mr. Sinclair also raised questions about the statistical procedures being employed in the nationwide cooperative studies of nesting mourning doves being conducted by the Service and participating State conservation agencies.

Response. In numerous previous Federal Register publications the Service addressed in detail the issue of September dove hunting (for example, see pages 37553-37554 of the Federal Register dated July 22, 1977). Also, the Service issued an environmental assessment on July 18, 1977, titled *Proposal for Continuation of September Hunting of Mourning Doves*, along with a negative declaration. Nationwide studies on dove nesting in September briefly reported upon at page 34086 of the Federal Register dated June 13, 1979. The Service believes that the final results of these investigations should be available for study and comment before changes are considered in the September hunting period. While comments on non-biological considerations of dove hunting are invited and will be considered by the Service in formulating annual hunting regulations, the provisions of various migratory bird treaties to which the United States is a party, and Section 3 of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703 et seq.) as amended, clearly direct the Service to focus its attention on biological factors when determining whether, and if so, when hunting should be allowed on various species of migratory game birds. In responding to the criticism of the

statistical procedures being utilized in various mourning dove studies, the Service previously noted that it seeks to employ the most appropriate techniques in its analyses. The Service intends to address Mr. Sinclair's statistical concerns in detail after reviewing his statement in the transcript of the June 21 public hearing.

Toby Cooper, representing Defenders of Wildlife (Defenders), commented on an array of proposed migratory game bird hunting regulations. Many of these related to species such as black ducks, canvasbacks and redheads, and Canada geese in Kentucky, all of which were outside the scope of the June 21 public hearing. Defenders reiterated its concern about dove hunting in September and recommended that the season opening be delayed to October 15.

Response. The Service addressed this subject in its reply to the Committee for Dove Protection.

Defenders also expressed concern about the status of woodcock in the eastern part of its range and recommended that the Service direct more attention to the species.

Response. While a long-term (1966-79) decline in the population index seems apparent for the species in the Atlantic Region, the index increased about 9 percent this spring. Further, the Service has no evidence that hunting is affecting this situation, and believes that changes in the regulations are neither necessary nor desirable at this time.

Defenders also expressed continuing concern about shooting hours commencing one-half hour before sunrise. Suggestions were offered on how hunter identification of waterfowl could be evaluated under an experimental situation involving releases of ducks of known species.

Response: Defenders' concerns were oriented primarily to water-fowl hunting regulations which will be considered later in the regulatory schedule. Shooting hours was the subject of a Federal Register final rulemaking on August 9, 1977 (42 FR 40211), and of an environmental assessment and negative declaration filed on September 2, 1977. The Service believes that in the absence of any new information the subject has been adequately considered. The Service plans to continue field studies on shooting hours and hunter performance this fall.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the amendments resulting from these

supplemental proposals will specify open seasons; shooting hours; and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common snipe, coots, and certain waterfowl in the contiguous United States; sea ducks in coastal waters of certain eastern States; sandhill cranes in North Dakota and South Dakota; and mourning doves in Hawaii.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow a comment period past July 13, 1979, is contrary to the public interests.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in the rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525 A, Matomic Building, 1717 H Street, NW., Washington, D.C.

All relevant comments received no later than July 13, 1979, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

The *Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds* (FES 75-54) was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 25241). An environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplemented the discussion on dove hunting in FES 75-54. Another assessment enlarged upon the FES discussion of shooting hours. Several other environmental assessments or statements addressed species or regulatory subjects peculiar to late season regulations and implementation of the non-toxic shot program. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." and "by taking such action necessary to insure that actions authorized, funded, or carried out . . . do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical."

Section 7 consultations are presently under way regarding the early season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this document. Any modifications that may be desirable will be reflected in the final rulemaking on regulations frameworks for "early seasons" scheduled for publication in the Federal Register on or about July 23, 1979.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, an area in Alaska is closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Authorship

The primary author of this proposed rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Proposed Regulations Frameworks for 1979-80 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks which prescribe season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; for a portion of the regular duck season in Iowa to be taken in late September; for sandhill cranes in designated portions of North Dakota and South Dakota; and special falconry regulations. For the guidance of State conservation agencies, these frameworks are summarized below.

Note.—Any State desiring its seasons on gallinules, woodcock, snipe, sandhill cranes, or extended falconry to open in September must make its selection no later than July 26, 1979. Those States which desire their gallinule, woodcock, snipe, sandhill crane, or extended falconry season to open after September may make their selection at the time they select their regular waterfowl season.

Those Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selections no later than July 26, 1979. Those Atlantic Flyway coastal States which desire their season on sea ducks in certain defined areas to open after September may make their selections at the time they select their regular waterfowl seasons.

Mourning Doves

Between September 1, 1979, and January 15, 1980, except as noted, States may select hunting seasons and bag limits as follows:

Eastern Management Unit (All States east of the Mississippi River and Louisiana):

1. Shooting hours¹ between 12 o'clock noon and sunset daily;

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, *Alabama, Georgia, Louisiana, and Mississippi* may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:
Alabama—The South Zone consists of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia—U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1979.

Central Management Unit (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. *Texas* may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1979, and January 22, 1980.

¹ The hours noted here and elsewhere also apply to hawking (taking by falconry).

C. The South Zone may have a season of not more than 60 days between September 20, 1979, and January 22, 1980. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining days must be within the September 20, 1979-January 22, 1980, period.

5. In *New Mexico*, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively;

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the *Nevada* Counties of *Clark* and *Nye*, and in the *California* Counties of *Imperial*, *Riverside*, and *San Bernardino*, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

White-Winged Doves

Arizona, *California*, *Nevada*, *New Mexico*, and *Texas* may select hunting seasons between September 1, 1979, and December 31, 1979, and daily bag and possession limits as stipulated below. Shooting hours between ½ hour before sunrise and sunset may be selected.

Arizona may select a hunting season for the entire State. The reduced limits and season modifications being developed under State regulations will be reflected in the Service's final frameworks.

California may select a hunting season for the Counties of *Imperial*, *Riverside*, and *San Bernardino* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the Counties of *Clark* and *Nye* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

Band-Tailed Pigeons

West Coast States (California, Oregon, and Washington). These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1979, and January 15, 1980. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of *Alpine*, *Butte*, *Del Norte*, *Glenn*, *Humboldt*, *Lassen*, *Mendocino*, *Modoc*, *Plumas*, *Shasta*, *Sierra*, *Siskiyou*, *Tehama*, and *Trinity*; and

2. The remainder of the State.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah). These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1979. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations. *Provided*, That each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency, and such permit will be valid in that State only; and *Provided further*, That this season shall be open only in the areas delineated by the respective States in their hunting regulations.

New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1979, and November 30, 1979, in the North Zone, and October 1, 1979, and November 30, 1979, in the South Zone, hunting seasons not to

exceed 20 consecutive days in each zone may be selected by *New Mexico*.

Rails

(*Clapper, King, Sora, and Virginia*)

The State included herein may select seasons between September 1, 1979, and January 20, 1980, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days.

Shooting hours between ½ hour before sunrise and sunset in all States for all species may be selected.

Clapper and King Rails.—1. In *Rhode Island*, *Connecticut*, *New Jersey*, *Delaware*, and *Maryland*, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In *Texas*, *Louisiana*, *Mississippi*, *Alabama*, *Georgia*, *Florida*, *South Carolina*, *North Carolina*, and *Virginia*, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails.—In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway.^{2 3}

No hunting season is prescribed for rails in the remainder of the Pacific Flyway.

Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1979, and February 28, 1980, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively. *Provided*, That in *Maine*, *New Hampshire*, *Massachusetts*, *Rhode Island*, *Connecticut*, *New York*, *New*

²The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana, (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

³The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Shooting hours may be selected between ½ hour before sunrise and sunset. Any State may split its woodcock season without penalty.

New Jersey may select experimental woodcock seasons by north and south zones divided by State Highway 70. Seasons in each zone may not exceed 55 days.

Common Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1979, and February 28, 1980, not to exceed 107 days, except that in *Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia* the season must end no later than January 31. Seasons between September 1, 1979, and February 28, 1980, and not to exceed 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours between ½ hour before sunrise and sunset may be selected. Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season into two segments without penalty. States or portions thereof in the three eastern Flyways may defer selections of snipe seasons at this time and make the selections in August when they select waterfowl seasons. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1979, and January 20, 1980, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

Sandhill Cranes

North Dakota and South Dakota may select sandhill crane seasons not to exceed 5 consecutive days during the period September 1 through 11, 1979, in certain designated areas.

In North Dakota, the season is confined to Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh Counties. In South Dakota the season is confined to Campbell, Walworth, Potter, Dewey, and Corson Counties. Shooting hours may be selected between ½ hour before sunrise and sunset. In both States, the bag limit is 3 birds daily and the possession limit is 6 birds. Each person participating in the season must obtain and carry in his possession while hunting a Federal sandhill crane hunting permit.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

A maximum season of 107 days for taking scoter, eider, and oldsquaw ducks may be selected between September 15, 1979, and January 20, 1980, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut*; in those coastal waters of the State of *New York* lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of *New York* lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in *New Jersey, South Carolina, and Georgia*; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in *Delaware, Maryland, North Carolina, and Virginia*; *Provided, That any such*

areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours between ½ hour before sunrise until sunset daily may be selected.

Any State desiring its sea duck season to open in September must make its selection no later than July 28, 1979. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or special falconry season) exceed 107 days for any geographical area.

September Teal Season

Between September 1 and September 30, 1979, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico* (Central Flyway portion only), *Ohio, Oklahoma, Tennessee, and Texas* in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 28, 1979.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for any geographical area.

Late September Duck Season in Iowa

Iowa is offered the option of selecting a portion of its duck hunting season in September with the number of days to

be deducted from the number of days allowed during the regular duck season. All ducks which are legal during the regular duck season can be taken during the September segment of the season. The proposal, if implemented, would be conducted as a trial over a 3-year period and subject to an evaluation of resulting population and harvest data. In 1979, the 5-day early season would extend from September 22 through September 26, with daily bag and possession limits being the same as those in effect during the 1979 regular duck season.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours shall not exceed one-half hour before sunrise to sunset.

4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

5. Each State selecting extended seasons shall report to the Service the results of the special falconry season by March 15, 1980.

6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits apply to falconry in each State listed in 50 CFR 21.29(k)a which does not select an extended falconry season.

Exception from Executive Order 12044 and 43 CFR 14

As discussed in the Federal Register dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings.

Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14 which is provided for in section 6(b)6 and § 14.3(f), respectively.

Dated: June 25, 1979.

Lynn A. Greenwalt,
Director, U.S. Fish and Wildlife Service.

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**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of Education

[45 CFR Part 166]

**Adult Education—State-Administered
Program and Commissioner's
Discretionary Programs**

AGENCY: Office of Education, HEW.

ACTION: Proposed Rules.

SUMMARY: The Commissioner of Education proposes to issue regulations to implement the Adult Education Act. The Adult Education Act was amended by the Education Amendments of 1978. These proposed regulations govern the State-administered program of adult education and the Commissioner's four discretionary programs. The primary thrust of these proposed regulations is to significantly expand the State delivery system of educational services to adults who are least educated and most in need of assistance. The proposed regulations also address educational programs for adult immigrants and adult Indochina refugees, planning grants to States, and a national development and dissemination program. The proposed regulations revise existing regulations to make them more understandable to the public.

DATES: Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulations on or before August 27, 1979.

Public meetings on these proposed regulations will be held in ten cities on August 7, 1979. The times for these meetings are—1 p.m.—5 p.m., 7 p.m.—9 p.m.

ADDRESSES: Comments should be addressed to Paul V. Delker, Director, Division of Adult Education, U.S. Office of Education, 400 Maryland Avenue SW., (ROB-3, Room 5056), Washington, D.C. 20202.

The location for the public meetings are:

- Region I—Boston; Boston School Dept., Administration Building, Boston Committee Hearing Rm. 26, Court Street, Boston, Mass.
- Region II—New York; Hearing Room E, Room 2222, 26 Federal Plaza, New York, New York.
- Region III—Philadelphia; University City Holiday Inn, 38th & Chestnut Street, Philadelphia, Pa.
- Region IV—Atlanta; Regional Office Building, 101 Mariette Towers Bldg., Suite 2221, Atlanta, Georgia.
- Region V—Chicago; Roosevelt University, 430 South Michigan, Room 773, O'Malle Theater, Chicago, Illinois.

Region VI—Dallas; North Lake Junior College, Room B206, Lecture Hall, 2000 Walnut Hill Lane, Irving, Texas (Near Dallas Fort Worth Airport).

Region VII—Kansas City; Federal Office Bldg., 601 East 12th Street, Room 140, Kansas City, Missouri.

Region VIII—Denver; George Washington High School, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco; Federal Office Building, Room 209, 50 United Nations Plaza, San Francisco, Calif.

Region X—Seattle; Room 1021, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Paul V. Delker, (202) 245-2278.

FOR INFORMATION ON REGIONAL MEETINGS CONTACT: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223-7500

Region II, New York, Dr. William D. Green, (212) 264-4370

Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596-1001

Region IV, Atlanta, Dr. William L. Lewis, (404) 221-2063

Region V, Chicago, Ms. Juliette Noone Lester, (312) 353-5215

Region VI, Dallas, Mr. Edward J. Baca, (214) 767-3626

Region VII, Kansas City, Dr. Harold Blackburn, (816) 374-2276

Region VIII, Denver, Dr. John Runkel, (303) 837-3544

Region IX, San Francisco, Dr. Caroline Gillin, (415) 556-4920

Region X, Seattle, Mr. Allen Apodaca, (206) 442-0460

SUPPLEMENTARY INFORMATION:

General Information

Background

On November 1, 1978, the Educational Amendments of 1978 (Pub. L. 95-561) were signed into law. Title XIII of this legislation contains the amendments to the Adult Education Act. The primary purpose of the Adult Education Act has been, and continues to be under the new amendments, to offer educationally disadvantaged persons 16 years of age and older the opportunity to acquire basic skills necessary to function in society and to become more employable, productive, and responsible citizens.

There are two major parts to the adult education program established under the Adult Education Act. One is the State-administered program and the other is comprised of four national discretionary programs.

The State-administered program establishes a cooperative effort between the Federal Government and the States. Funds are allocated to the States on a formula basis and the States, in turn,

fund local programs based on need and resources available. Each State is required to match these Federal adult education funds at the rate of ten cents for every ninety cents of Federal money.

These regulations have been drafted to implement the intent of the Congress as expressed in the amended Adult Education Act. After examining the Act and its legislative history, the Commissioner of Education considers the most important objective of this Act to be to provide adult basic education for those who are least educated and most in need of assistance. As the House Report on this subject stated, "The needs of those individuals have not been adequately met to date and now is not the time to loosen up the requirements of the Act to spend more funds on those who are better educated and closer to achieving high school equivalency. For this reason, the Committee [on Education and Labor] adopted amendments that specifically direct that the required State plans describe how the program in each State will reach some of the adult populations traditionally most in need of, and least likely to participate in, adult education." (H. Rept. No. 95-1137, p. 128)

Congress amended the Adult Education Act to stress a significant expansion of a State's delivery system and an increased emphasis on outreach activities. With respect to the expansion of its delivery system, a State may now award subgrants to public and private nonprofit agencies in addition to the traditional recipients (i.e., local educational agencies). A State is also required to seek the active participation of representatives of diverse interests to participate in developing and carrying out its State plan.

The new amendments to the Act direct the States to increase their activities to inform the adult populations who are least educated and most in need of assistance of the availability and benefits of the adult education program. In order to insure the participation of these adult populations, recipients of funds must provide reasonable and convenient access to the program. Programs must be more flexible in their course offerings, locations, and in terms of providing for additional services such as day care and transportation.

The amended Act now requires that a State include in its State plan the criteria it will use to assess the applications submitted by eligible applicants. This requirement constitutes a major departure from past practice and will lead to greater accountability for the expenditure of Federal funds.

In addition to the State-administered program, the Act authorizes—

1. A National Development and Dissemination Program;
2. Planning Grants;
3. An Emergency Adult Education Program for Indochina Refugees; and
4. An Adult Education Program for Adult Immigrants.

Regulations to implement these discretionary programs are proposed in §§ 166.101 through 166.242.

These proposed regulations do not address contracts under the National Development and Dissemination Program and the Adult Education Program for Adult Immigrants. In the case of contracts, an offeror shall submit to the Commissioner a proposal that meets the requirements of a Request for Proposal (RFP) as announced by the Commissioner in the *Commerce Business Daily*. Selection criteria will be contained in the Request for Proposal. The proposal must meet the requirements of chapters 1 and 3 of title 41 of the Code of Federal Regulations.

No funds have been made available by the Congress for the four discretionary programs for Fiscal years 1979 or 1980.

How To Use These Regulations

The proposed regulations represent a significant departure from former adult education program regulations. In the past a user could generally rely on the adult education regulations, as a self-contained document, to determine which requirements were relevant. Under the current practices for the development of Office of Education regulations, the user must read these proposed regulations in conjunction with certain other documents. As a result, these proposed regulations are shorter and simpler than the former adult education program regulations.

First, these proposed regulations do not repeat or paraphrase the requirements contained in the text of the Adult Education Act. Since recipients of funds are bound by the requirements of the Act, as well as the regulations, the text of the Act is published—for the benefit of a user—as Appendix C to these proposed regulations. Appendix A lists the program assurances the State educational agency must sign in order to receive its entitlement. Appendix B establishes the national priorities for State-administered special projects and teacher training projects.

Second, these proposed regulations do not contain certain types of administrative requirements formerly found in the adult education program regulations. Those requirements will be

covered in the Education Division's General Administrative Regulations (EDGAR), which will replace the general Provisions for Office of Education Programs regulations and which were published as a Notice of Proposed Rulemaking (NPRM). Anyone wanting to comment on these requirements should respond to the EDGAR NPRM, rather than to this NPRM.

The "Introduction to Education Division Programs" at the beginning of EDGAR includes general information to assist recipients in using regulations that apply to Education Division programs.

Certain other administrative requirements are contained in the Department of Health, Education, and Welfare General Administration regulations in 45 CFR Part 74 (Administration of Grants). These HEW grants administration regulations cover, for example, cost principles, reporting requirements, property requirements, and procurement standards.

The General Education Provisions Act and the various civil rights authorities also govern the operation of the adult education program. The regulations implementing the civil rights authorities and those relating to the protection of human subjects and day care services are referenced in EDGAR.

These authorities are: 45 CFR Parts 80 and 81, relating to nondiscrimination on the basis of race; 45 CFR Part 84, relating to nondiscrimination on the basis of handicap; 45 CFR Part 86, relating to non-discrimination on the basis of sex; 45 CFR Part 46, relating to the protection of human subjects; and the Federal Interagency Day Care Regulations (FIDCR) in 45 CFR Part 71. (The FIDCR are under revision, and an NPRM will soon be published.) In addition, the Department will shortly be issuing final regulations at 45 CFR Part 90 to implement the Age Discrimination Act.

Public Participation

The Commissioner of Education has undertaken a variety of steps to maximize public participation in the development of these proposed regulations. These steps are consistent with the objectives contained in the President's Executive Order 12044 on Improving Government Regulations and the Secretary's Operation Common Sense initiative.

In October and November of 1978, the Office of Education convened four area workshops with State Directors of Adult Education. The purpose of these workshops was to raise issues concerning the fulfillment of the legislative intent with suggested

alternatives for resolving the issues. These workshops also provided an opportunity to share with State Directors suggested models and processes for planning and carrying out State adult education programs.

On November 29, 1978, the Commissioner announced in the Federal Register (43 FR 58801) a Notice of Intent to Develop Regulations for the Adult Education Program. Following this announcement, 10 area meetings were held across the country to identify and resolve major issues raised by the amended legislation before final regulations are implemented.

Many comments and suggestions were submitted at the four workshops and 10 area meetings. In addition, over 200 persons mailed comments directly to the Office of Education. These comments were analyzed and, in many instances, incorporated into these proposed regulations. The major issues that surfaced during the development of these proposed regulations are discussed in the next section of the preamble.

On March 1, 1979, the Commissioner announced in the Federal Register (44 FR 11567-11568) a Notice of Availability of Draft Proposed Regulations for the State-administered program. State educational agencies are using the draft as guidance in formulating three-year State plans.

At this time, the Commissioner invites the public to comment on the text of the proposed regulations. The public is requested to specify the section number of the proposed regulations to which each comment refers. The Commissioner of Education will respond to the comments received as a part of the final regulations. This response will also cover and comments made by the public on the draft proposed regulations.

Ten public meetings will also be held during the 60-day comment period on these proposed regulations to offer the public another opportunity to address the significant issues raised. These meetings will be conducted in cities across the country. The dates and locations are specified in this preamble.

Finally, under its statutory responsibility, the National Advisory Council on Adult Education has provided meaningful advice to the Commissioner on the preparation of these regulations.

Discussion of Major Issues

Some of the comments received by the public raised critical policy issues with respect to the interpretation and implementation of the Act. These issues are briefly summarized in the following

paragraphs. Since the policy positions in these paragraphs are not final, the Commissioner invites the public to submit views on them.

1. *Regulating the Local Application Process*

In a major departure from previous requirements, section 306(b)(13) of the amended Act requires a State to include in its State plan the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions. It is clear from this requirement that a local application is an essential element in the decisionmaking process concerning the use of Federal and State funds under the State plan. The local application must, therefore, include sufficient information to enable a State educational agency to make program decisions consistent with the purpose and intent of the legislation.

Many commenters expressed concern that the Federal Government not overregulate in this area. Some commenters felt that a requirement for an extensive local application would constitute an increased paperwork burden on State and local educational agencies. An increased paperwork burden is judged by the commenters as being inconsistent with Congressional intent to reduce paperwork burdens as reflected in the provisions for a three-year State plan.

Another concern expressed was the increased State and local administrative time and cost involved with implementing an extensive local application system. The additional cost of administering that system would have an adverse effect on funds available for programs at the local level and would be particularly detrimental to the smaller programs in a State. Many smaller programs are staffed by part-time personnel and do not currently have the capacity to develop an extensive local application. Therefore, additional staff might be required to develop the local application or the program might be dropped by the local educational agency.

Other commenters indicated that some States have in the past used a system of local applications even though the procedure was not specifically required under the former legislation. This group of commenters concluded that the use of local applications is good management practice. However, this group also expressed concern that the Federal Government not overregulate in this matter.

The Commissioner agrees that this provision in the law will require

increased administrative time and resources at both State and local levels. However, the potential for improved program management, coupled with the provisions in the law for increased program and administrative funds, would seem to support for the full implementation of this requirement.

The Commissioner has chosen not to regulate the content of the local application. However, in § 166.41 the proposed regulations address what the Commissioner considers the minimum criteria for a State's review of local applications that would implement the purpose and intent of the legislation. A State will need to consider the local application data necessary to make sound management decisions.

2. *The Criteria a State Uses To Distribute Funds*

Many commenters expressed concern as to how section 306(b)(13) of the Act should be regulated.

Some commenters indicated that States already have a system established for awarding funds to eligible applicants which meets unique needs of individual States. Accordingly, a prescribed change in the criteria for awarding funds may result in the disruption of long-established and greatly needed programs. These commenters suggest that there should be no regulations in this matter or, at most, regulations that provide States the flexibility to meet their respective unique situations.

Another group of commenters suggested that States be required to develop specific funding criteria that measure applicant capability to provide effective service. Some commenters suggested that the criteria should include items such as assessment of the objectives and methods of attaining the goals of the activity proposed, the past performance of the applicant in serving the least educated, staff qualifications, evidence of linkages with other agencies, adequate facilities, fiscal responsibility, and cost effectiveness.

Another concern expressed was that a State educational agency not be permitted to make the funding criteria so specific as to preclude public and private nonprofit agencies, organizations, and institutions from participation in the program. For example, a State should be prohibited from adopting criteria that would specify the number of hours of instruction required in a program or require the use of specific tests or resource persons.

Section 166.41 of these proposed regulations addresses what the

Commissioner believes are the minimum requirements for assuring that applications are funded in a manner consistent with the purpose and intent of the legislation. An effort has been made to identify the factors that reflect the thrust of the law, while permitting a State educational agency maximum flexibility to develop the specific criteria to meet the needs unique to the State.

3. *Expanding the Delivery System*

As outlined in the *Background* section of this preamble, Congress placed major emphasis on the expansion of the delivery system. Section 306(b)(7) of the Act now requires a State educational agency to describe the means by which the delivery of adult educational services will be significantly expanded through the use of agencies, institutions, and organizations other than public school systems. The legislative history clearly indicates that existing cooperative efforts between public school systems and other agencies, institutions, and organizations have not been adequate to meet the educational needs of the least-educated and most-in-need segments of our adult population.

The basic school-based adult education programs have not attracted high participation from many segments of our society. Under the amended Act, participation by underserved segments of the population should be increased through the expansion of the delivery system. This expansion must now take into account organizations such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations.

Public comments on the use of these alternative delivery systems both supported the concept and raised questions about its efficiency. The strongest support came from those concerned with libraries and their role in adult education and from private groups claiming special skills in dealing with populations such as Indochinese and other immigrant groups. Both volunteer and business groups were cited as potential delivery systems outside the public school systems.

The major adverse reactions were those relating to competition for limited Federal funds, duplication of efforts, questionable qualifications of other than public school systems to understand and deliver appropriate services to the least educated adults, and quality control. Some commenters viewed alternative delivery systems as less cost effective, providing less security, and not being financially liable.

In order to carry out this statutory provision for expanding the delivery system, § 166.15 of the proposed regulations requires a State to use agencies that can reach out to the adult populations most in need. A State may award subgrants to public or private nonprofit agencies (§ 166.31), as well as to local educational agencies. A State or eligible applicant may also contract for services with private for-profit organizations capable of carrying out an adult education program (§ 166.15).

4. Applications From Public or Private Nonprofit Agencies

Section 304(a) of the Act provides that programs may be carried out by public or private nonprofit agencies, organizations, and institutions only if they have consulted the appropriate local educational agency and given it an opportunity to comment on the application of the agency, organization, or institution. The State educational agency may not approve any application unless it is assured that this consultation has taken place. Many commenters expressed the need for a clear description in the regulations of what would constitute adequate consultation under provisions of section 304 of the Act.

One group of commenters suggested that the regulations limit public and private nonprofit agencies, organizations, and institutions to an advisory role to the local educational agency. These commenters stated that funds should be granted to local educational agencies only. This view appears to be based on the assumption that the local educational agency has been vested by the State Legislature with the responsibility for the total educational program of the community. It was also pointed out by these commenters that limiting funds in this way would be the most effective safeguard for maintaining the present level of professionalism and accountability in adult education.

Some commenters believed that public and private nonprofit agencies, organizations, and institutions should have the opportunity to submit applications to a State for funds to carry out adult education programs. A few of these commenters suggested that the nonprofit groups should be required to prove that the population group they are requesting funds to serve is not being served by the local educational agency.

Others felt that the local school board should be required to certify that projects proposed by the nonprofit groups are neither duplicative nor in competition with projects sponsored by

the local educational agency. Proposed projects would also need to be certified as being consistent with the educational goals established by the local school board.

Other commenters expressed the view that the regulations should specify the level of funds that would be required to be expended for projects carried out through public and private nonprofit agencies, organizations, and institutions. This view appears to be based on the feeling that the nonprofit groups are the best alternative to reaching adults who are least educated and most in need of assistance, as well as those who have already experienced failure in the public school system.

Under this arrangement, the local educational agency's consulting role should not be used to impede the functioning of nonprofit groups. Local educational agencies should have no veto or approval power over applications. The only requirement should be that the nonprofit groups inform the local educational agency of the alternative adult education programs being provided.

The Commissioner agrees that paragraph (a) of section 304 of the Act is susceptible to a variety of interpretations. The main purpose of this requirement for consultation is to design a delivery system that allows adult educational services to be provided by those agencies that can best reach out to the adult populations most in need. The Commissioner believes that the most effective way of implementing this provision is requiring a competitive application process that considers the best possible combination of agencies for reaching the adult population most in need in the most efficient and economical manner. Under this competitive application process a State is expected to meet the requirements of the Act for expanding the delivery system.

These proposed regulations in § 166.31(b) address the requirements for consultation. It is a two-step process requiring the nonprofit group to (a) seek the advice and guidance of the local educational agency on the development of its application and (b) provide the local educational agency an opportunity to comment on the application prior to its submission to the State educational agency.

This process is intended to encourage cooperation among all applicant agencies in the geographical area to develop the best delivery system possible for reaching adults who are least educated and most in need of assistance. The local educational

agency does not have veto or approval power over applications from nonprofit groups. The State educational agency, however, shall make the decision as to which applicants will be funded.

5. Outreach

The legislative history of the amended Adult Education Act recognizes the failure of the States to adequately bring the underserved, least educated, and unemployed into the mainstream of our society. In order to provide adult educational services to these adults under this program, the States must undertake intensive outreach efforts.

The proposed regulations define "outreach" in § 166.3 to mean "activities designed to (1) inform adult populations who are least educated and most in need of assistance of the availability and benefits of the adult education program, and (2) assist these adult populations to participate in the program by providing reasonable and convenient access." Thus, the State and local recipients must not only support activities designed to publicize the program, they must also include efforts to facilitate the participation of eligible persons once those persons become aware of the program.

Outreach activities are now an integral part of a number of federally funded assistance programs including the Food Stamp program, Aid to Families with Dependent Children (AFDC), social services under the Older Americans Act, and the Supplemental Security Income program (SSI). Administrators of these programs have actively disseminated explanatory publications using means such as direct mailings, information booths at shopping centers or polling places, and flyers accompanying utility bills.

Use of the media is another effective method of reaching the intended audience. Private organizations such as legal aid clinics, churches and synagogues, unions, senior citizens' groups, veterans' groups, lodges, and fraternal orders are usually very helpful in reaching their own members.

Facilitating access for eligible persons is the second major ingredient of outreach. This includes not only making participation possible, but also making it easier. Locations of programs should be at geographically convenient places, with the hours of instruction designed to reasonably accommodate the demands of the participants. Special transportation services, which are now reimbursable under the Act, may be necessary to assist individuals who are unable to use conventional means of transportation to reach a program site.

In addition, day care and child care services, which are also reimbursable activities, should make it easier for needy adults to participate.

The Office of Education has received numerous comments endorsing the new emphasis on outreach. Some commenters favored outreach because it made the program more accessible to their place of residence. Other commenters stated that neighborhood centers should provide learning in informal settings, particularly for classes in English as a second language. Others urged that classes be held in community centers where the elderly are served lunch and to which they are provided transportation. Another commenter suggested that satellites of existing centers be used as a means of finding and serving those needing basic literacy instruction.

Although these proposed regulations have incorporated this vitally important component of outreach into the adult education delivery system, a State has the discretion to perform outreach activities in a manner that most effectively meets the needs of those adults in the State who are least educated and most in need. The Commissioner does not propose any fiscal ceiling on the amount used for support services or other outreach activities. At the same time the Commissioner does not propose to divert substantial resources away from the support of instruction and believes that eligible grantees should make concerted efforts to use other Federal, State, and local resources to support outreach activities. The Commissioner does, however, solicit further comment on the subject. Comments are particularly invited on the proposed definition of "outreach" and whether this activity should be more restrictively regulated.

6. Special Adult Populations in Need of Assistance

Although section 306(b)(1) of the Act requires a State to set forth a program for all segments of the adult population in the State, other parts of the Act and the legislative history place special emphasis on specific adult populations.

Adults from rural areas and from urban areas with high rates of unemployment are singled out in section 306(b)(1) as segments of the population to be served. Adults with limited English language skills are recognized as a priority group in section 306(b)(1) and section 306(b)(11). Institutionalized adults are mentioned as a priority in section 306(b)(1) and section 304(b). Section 306(b)(12) of the Act requires

that the State plan demonstrate that the special needs of adult immigrants have been examined.

In addition to these five special adult populations whose needs must be examined and accommodated by the State, the proposed regulations in § 166.13 list additional groups. Elderly persons have been included as a result of the recent findings by the Commission on Civil Rights. In its Age Discrimination Study submitted to the President and the Congress, the Commission found that the 55 to 65 age group accounts for only 10 percent of the adult basic education program participation, while this age bracket accounts for 35 percent of the eligible participants. Those over 65 make up only 4 percent of the participant population, although it has been estimated that illiteracy rates are relatively higher for this age group than for persons 55 to 65.

Handicapped adults, women, and adults from minority groups are also included in this list of special populations whose educational needs must be examined. These three populations are prime examples of discrete classes that, in many instances, have been *outside the mainstream of the adult education delivery system*. In order to remedy the past deficiencies of the State in providing ready access to the program for these groups, the Commissioner believes it is appropriate to add the handicapped, women, and minorities to the list of special populations in § 166.13.

The Commissioner encourages the public to submit comments on the appropriateness of including each of the special populations in § 166.13.

7. The Participatory Process in Developing the State Plan

In the past, State educational agencies had sole responsibility to develop and carry out the State plan. The amended Act now calls for the participation of a variety of groups and agencies in both the development and implementation of the plan. This significant statutory change raises a number of issues. First, what agencies must be included in the actual development and implementation of the plan? How are representatives from these agencies to be selected? Finally, what role must be assigned to these representatives in developing the plan?

With respect to the first issue, section 306(b)(8) lists 15 agencies and groups that will be "involved in the development of the plan and will continue to be involved in carrying out the plan." In addition to the 15 groups

specified in the statute, section 306(b)(8) calls for participation by "other entities in the State concerned with adult education."

Because the participatory requirement is a major departure from past practice, numerous comments were submitted to the Office of Education advancing varying viewpoints. One group of commenters urged that the State educational agency be assigned total discretion in selecting the agencies to be involved. These commenters for the most part supported the former practice of allowing the State educational agency total autonomy in the development and implementation of the plan. A countervailing group of commenters suggested participation by groups in addition to those included in the Act (e.g., libraries, State employment security agencies, and organizations representing older persons).

These proposed regulations in § 166.14 delineate the 15 agencies, organizations, institutions, and groups that must be represented in developing and carrying out the plan. A sixteenth category of "other entities" is also included with examples of types of organizations that should be included in the participatory process. Under the proposed structure, the State must involve at least 15 listed groups in order to be in compliance.

Neither the Act nor the legislative history offers any guidance, however, on how these representatives are to be selected or how their participation is to be verified. Most commenters urged that the State educational agency be left free to determine how representatives should be selected. A few commenters, however, believed the appointments should be made by organizational heads. The comments seemed evenly divided on requiring or not requiring signed certifications to verify participation.

The Commissioner agrees with those commenters favoring a flexible mode in the selection process. These proposed regulations in § 166.14 require only that a State plan describe how the representatives were selected and the means by which these representatives were involved in the development of the plan. In this way, a State may elect the process it considers to be most effective. Certifications, direct or delegated designations, and other methods may be employed as long as the State educational agency reliably documents these procedures in its State plan.

On the final question of how these representatives are to be involved in developing and carrying out the plan, neither the Act nor the legislative history offers any specific guidance.

These two sources do, however, reinforce the importance of actively involving these representatives in order to improve outreach activities and the delivery of services to those adults who are least educated and most in need of assistance.

The comments received on this significant issue appear to span the entire spectrum of the participatory process. Some commenters suggested that a public hearing would satisfy the requirements of the Act. Others called for the representatives from the various agencies to write the plan and carry it out.

The Commissioner considered a broad range of options. These proposed regulations in § 166.14 define "involved in the development of the plan" to mean that the representatives of the various groups are given an opportunity to actively participate in all stages of formulating the plan. In this way, the regulations assure substantive involvement without prescribing the methods or mechanisms through which diverse involvement is achieved. This requirement is designed to allow maximum flexibility to a State educational agency while also assuring that token participation will not qualify a State to receive funds.

The regulations further provide that a State plan will explicitly cite any recommendation that is rejected by the State educational agency and the reasons for rejecting the recommendation. These requirements are designed to further safeguard against misunderstandings between a State educational agency and participating representatives and to further prohibit superficial involvement without substantive impact.

With respect to the issue of the involvement of these representatives in carrying out the plan, § 166.15 of these proposed regulations requires that a State annually provide the representatives with the opportunity to comment both on how the State educational agency is carrying out the plan and the expansion of the delivery system. A State must include these comments in its subsequent three-year plan.

8. Limitation on Funds for Special Experimental and Demonstration Projects and Teacher Training Projects

Section 310 of the Act requires each State to expend at least 10 percent of its allotment for special experimental and demonstration projects and teacher training projects. This is the same minimum percentage contained in the former section 309 of the Act.

On the issue of whether the Commissioner should establish an upper limit on the percentage used for this purpose, or whether a justification should be required for expenditures that substantially exceed the 10 percent requirement, numerous comments were received. Most of the commenters including the National Advisory Council on Adult Education, took the position that the Commissioner should not establish an upper limit or a justification requirement. These commenters pointed to the absence of any evidence indicating abuse or excessive expenditures and suggested, therefore, that no programmatic benefit would accrue with further regulation. A few commenters, however, suggested that all amounts in excess of the 10 percent minimum should require adequate justification.

The Commissioner agrees with the majority of the commenters that there is no reasonable basis at this time for establishing a justification requirement or an upper limit. Inflationary pressures appear to have forced the State educational agency to allocate as much as possible of its allotment for program operations. Accordingly, these proposed regulations do not cover this issue.

9. Regulating State Advisory Councils

The Commissioner proposes not to regulate the establishment, functions, and responsibilities of State advisory councils. The basis for this position is twofold. First, section 312 of the Act provides sufficient guidance to the State to govern the operation of these councils. Second, the Act does not require the State to establish a State advisory council and, therefore, only a couple of States operate advisory councils with the Federal allotment or non-Federal matching share.

Although many States have advisory councils that serve their adult education programs, these councils are generally broader in scope than just adult education. These councils, for the most part, are supported with funds other than those under the State plan and are not subject to the requirements of section 312 of the Act.

These proposed regulations merely require in § 166.13 that a State include in its plan a notification of the establishment of and membership of a State advisory council that meets the requirements of section 312. This requirement would only be binding on those States using the Federal allotment or non-Federal matching share to operate the advisory council.

The Commissioner invites public comment on the wisdom of this approach.

10. New Maintenance of Effort Requirements

These proposed regulations in §§ 166.52 through 166.54 describe the maintenance of effort requirements. This provision requires that the State expend each year from non-Federal sources an amount that is not less than the amount expended in the previous year. The Education Amendments of 1978, however, amended section 431A of the General Education Provisions Act to allow a waiver of this maintenance of effort requirement. Under this new waiver authority the Commissioner may waive, for one year only during the life of the Act, the maintenance of effort requirement in section 307(b) of the Adult Education Act. This waiver is permissible only if the Commissioner determines that a waiver would be equitable due to exceptional and unforeseen circumstances affecting the State.

These proposed regulations in § 166.54(c) contain standards by which the Commissioner may, under exceptional and unforeseen circumstances, waive the maintenance of effort requirement of the Act. These exceptional and unforeseen circumstances, which carry a penalty of pro rata reduction of the Federal allocation, include situations in which the State educational agency or local educational agency had no control of the events resulting in decreased expenditures but made a reasonable effort in a timely fashion to comply with section 307(b) of the Act. The Commissioner invites comments on these proposed standards to determine exceptional and unforeseen circumstances.

It should be noted that the Education Amendments of 1976 (Pub. L. 94-482) also revised the section 307(b) maintenance of effort requirement. Proposed regulations for this amendment were published in the Federal Register on September 2, 1977. These proposed regulations, however, were never published in final form due to the impending revisions in the waiver authority, subsequently included in the Education Amendments of 1978.

11. Programs for Adult Immigrants in Indochina Refugees

Under the provisions of sections 318 and 317 of the Act, the Commissioner is authorized to provide educational services for adult immigrants in Indochina refugees.

Section 318 represents a new authority which permits the Commissioner to award grants and contracts to State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide programs of adult education and adult basic education to immigrant adults in need of such services. Not less than 50 percent of the appropriated funds shall be used for contracts with private nonprofit agencies, organizations, and institutions. This provision represents the intent of the Congress to support community organizations which have historically provided a substantial part of the educational services for immigrants.

Section 317 is an extension of the emergency adult Indochina refugee program originally authorized in 1977. Under this authority the Commissioner makes grants to State and local educational agencies only.

Public comment is invited on issues relating to how educational needs of adult immigrants and Indochina refugees may best be met. The Commissioner seeks advice on identifying agencies having the capability and experience to serve the needs of immigrants most effectively.

Regulations Reform Project

The Office of Education completed a review of program regulations in April 1978. That review—the Regulations Reform Project—had as its major objective the improvement of Office of Education regulations. The amended adult education regulations have implemented many of the recommendations of the Regulations Reform Project. The following recommendations are not included:

(a) The Project recommended that public participation requirements in developing State plans be limited to "securing input from advisory councils." Since this would be in direct opposition to the statute, Congressional intent, and the Administration's viewpoint, this NPRM does not follow that recommendation.

(b) The Project recommended that a single policy regarding State advisory councils apply to all State-administered programs. Since the statute provides sufficient guidance to the States to govern the operation of councils and does not require a State to establish a council, this NPRM does not regulate on State advisory councils. The Project's recommendations regarding advisory councils are not consistent with the statute; therefore, it is inappropriate to address them in these proposed regulations.

(c) The Project recommended an increase in administrative costs due to inflationary factors. Although the statute contains authority for an appropriation for State administration not to exceed 5 percent of the total appropriation, no separate appropriation has been made for this purpose to date.

The 1978 Amendments increased the minimum limitation on the amount of Federal funds that each of the 50 States, Puerto Rico, and the District of Columbia may expend for State administration to \$50,000. For American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands this minimum is set at \$25,000. In the absence of a separate appropriation, States may use a portion of their Federal allotments to pay for these administrative costs.

Operation Common Sense

This NPRM is written according to the Department's Operation Common Sense guidelines. Five comments relating specifically to the Adult Education State-administered Program were received in response to the Secretary's invitation to the public. All were based on legislative proposals and testimonies prior to the enactment of the 1978 amendments.

Comments related to expanding the delivery system for adult education, flexibility by States in assessing adult learning needs and allocating resources, and reducing paperwork. Each of these issues is discussed in depth in this NPRM.

Zero-Based Review

The Zero-based Review of Federal Planning Requirements of the President's Office of Management and Budget was designed to identify, simplify, and, when possible, consolidate or eliminate planning requirements for Federal programs. That review was completed in November 1977. The proposed regulations, for the adult education program have been written to accomplish the following:

(a) Standard assurances contained in the single State application required under section 435(b) of the General Education Provisions Act apply to the adult education program. Other assurances that specifically relate to this program are included in Appendix A of this NPRM.

(b) The recommendations regarding three-year State plan submissions with amendments when necessary have been accepted in the statute and NPRM.

(c) Data requirements are simplified and standardized in accordance with

HEW General Administration Regulations in 45 CFR Part 74.

(d) Appendix A to this NPRM includes an assurance of adequate consultation, cooperation, and coordination among the State educational agency and entities as specifically designated in the statute.

Invitation To Comment

A public meeting on this NPRM will be held in each of the ten HEW Regions. Since comments on other proposed regulations will also be heard at these public meetings, it is recommended that persons wishing to make oral comments on this NPRM first notify the appropriate Regional Commissioner for Educational Programs in order that a time may be scheduled.

Persons who do not previously notify the Regional Commissioner for Educational Programs of their intention to make oral comments will also be given an opportunity to speak. However, commenters will be called upon according to the prearranged schedule or, if not prearranged, in the order of registration.

In addition, interested persons are invited to submit comments, suggestions, and recommendations regarding the proposed regulations. Comments, suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before August 27, 1979, will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 5050, ROB-3, 7th and D Streets SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

Under the authority contained in the Adult Education Act (Pub. L. 91-230), as amended, the Commissioner is proposing to amend the regulations in 45, CFR Part 166.

(Catalog of Federal Domestic Assistance (CFDA) No. 13.400, Adult Education State-administered Program; Discretionary Programs, CFDA Nos. not assigned.)

Dated: May 4, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: June 17, 1979.

Hale Champion,
Acting Secretary of Health, Education, and
Welfare.

It is proposed to revise 45 CFR Part
166 to read as follows:

**PART 166—ADULT EDUCATION—
STATE-ADMINISTERED PROGRAM
AND COMMISSIONER'S
DISCRETIONARY PROGRAMS**

I. General

Sec.

- 166.1 What are the adult education programs?
166.2 What other regulations are applicable to the adult education programs?
166.3 What definitions apply to the adult education programs?
166.4–166.9 [Reserved]

II. State-Administered Adult Education Program

Subpart A—General

- 166.10 What is the adult education State-administered program?

Subpart B—How a State Applies for a Grant

- 166.11 Who is eligible?
166.12 What documents must a State submit to receive its grant?
166.13 What must the State plan contain?
166.14 How is the State plan developed?
166.15 What other requirements must a State educational agency meet?
166.16–166.20 [Reserved]

Subpart C—How a Grant Is Made to a State

- 166.21 How is the amount of each State's grant determined?
166.22 What is each State's limitation on administrative costs?
166.23–166.30 [Reserved]

Subpart D—How To Apply to the State for a Subgrant

- 166.31 Who is eligible for a subgrant?
166.32–166.40 [Reserved]

Subpart E—How a Subgrant Is Made to an Applicant

- 166.41 How will a State review annual applications?
166.42–166.50 [Reserved]

Subpart F—Conditions That Must Be Met by the State

- 166.51 What are the matching requirements of the program?
166.52 What are the maintenance of effort requirements of the program?
166.53 How is a waiver granted?
166.54 What are exceptional and unforeseen circumstances?
166.55 How is maintenance of effort computed in the event of a waiver?
166.56 What are the percentage requirements with respect to State distribution of Federal funds?

166.57–166.60 [Reserved]

Subpart G—State-Administered Special Experimental Demonstration Projects and Teacher Training Projects

- 166.61 Who are the eligible applicants for these projects?
166.62 What are the criteria and priorities in administering these projects?
166.63 How will a State administer these projects?
166.64 How will the results be disseminated?
166.65–166.100 [Reserved]

III. National Adult Education Development and Dissemination Program and Planning Grants

Subpart A—General

- 166.101 What are the National Adult Education Development and Dissemination Program and Planning Grants?
166.102 Who is eligible to apply for a grant?
166.103–166.110 [Reserved]

Subpart B—Kinds of Projects the Office of Education May Assist Under These Programs

- 166.111 What types of projects may be funded?
166.112–166.120 [Reserved]

Subpart C—How To Apply for a Grant

- 166.121 What must an application for a grant contain?
166.122 What is the duration of a project grant?
166.123–166.130 [Reserved]

Subpart D—How a Grant Is Made

- 166.131 What are the selection criteria for evaluating applications?
166.132–166.140 [Reserved]

Subpart E—Conditions That Must Be Met by a Grantee

- 166.141 What are the cost requirements under this program?
166.142 What documents must a State educational agency have on file with the Commissioner to be eligible for a planning grant?
166.143 What records and reports are required of the grantee?
166.144–166.200 [Reserved]

IV. Adult Education Programs for Immigrants and Indochina Refugees

Subpart A—General

- 166.201 What are the Adult Education Programs for Immigrants and Indochina Refugees?
166.202 Who is eligible to apply for a grant?
166.203–166.210 [Reserved]

Subpart B—Kinds of Projects the Office of Education May Assist Under These Programs

- 166.211 What is a special adult education project for immigrants or Indochina refugees?
166.212 What is the target population to be served by a project?
166.213–166.220 [Reserved]

Subpart C—How To Apply for a Grant

- 166.221 What must an application for a grant contain?
166.222 State review of applications.
166.223 What is the duration of Federal support?
166.224–166.230 [Reserved]

Subpart D—How a Grant Is Made

- 166.231 What are the selection criteria for evaluating applications?
166.232–166.240 [Reserved]

Subpart E—Conditions That Must Be Met by a Grantee

- 166.241 What are the cost requirements under these programs?
166.242 What records and reports are required of the grantee?
166.243–166.300 [Reserved]

Appendix A: Program Assurances by State Educational Agency.

Appendix B: Priorities for Programs of National Significance.

Appendix C: The Adult Education Act, as amended.

Authority: Secs. 301–318 of Pub. L. 91–230, as amended by Pub. L. 95–561; 20 U.S.C. 1201–1211c, unless otherwise noted.

I. General

§ 166.1 What are the adult education programs?

Part 166 contains regulations interpreting or implementing the programs authorized under the Adult Education Act. The programs included in this part are—(a) State-administered Adult Education Program;

(b) National Adult Education Development and Dissemination Program and Planning Grants; and
(c) Adult Education Programs for Immigrants and Indochina Refugees.

(20 U.S.C. 1201 et seq.)

§ 166.2 What other regulations are applicable to the adult education programs?

(a) The following regulations also apply to the State-administered program and the Commissioner's discretionary programs under the Adult Education Act:

(1) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs), 45 CFR Part 100b (State-administered Programs), and 45 CFR Part 100c (Definitions).

(2) The Department of Health, Education, and Welfare General Administration Regulations in 45 CFR Part 74 (Administration of Grants).

(b) The "Introduction to Education Division Programs" at the beginning of EDGAR includes general information to assist recipients in—(1) Using regulations that apply to Education Division programs; and

(2) Applying for assistance under an Education Division program.

(20 U.S.C. 1201, 1221)

§ 166.3 What definitions apply to the adult education programs?

(a) *Statutory definitions.* The following terms used in this part are defined in section 303 of the Act:

Adult.
Adult basic education.
Adult education.
Local educational agency.
State.
State educational agency.

(20 U.S.C. 1202)

(b) *Definitions in EDGAR.* The following terms used in this part are defined in Part 100c:

Applicant.
Application.
Award.
Budget period.
Commissioner.
Nonprofit.
Private.
Project.
Project period.
Public.

(c) *Definitions in Part 74.* The following terms used in this part are defined in 45 CFR Part 74:

Budget.
Grant.
Grantee.
Subgrant.
Subgrantee.

(d) *Program definitions.* The following definitions also apply to the adult education programs:

"Act" means the Adult Education Act (20 U.S.C. 1201 *et seq.*).

"Expansion" means that the State educational agency has increased over the previous program year (1) the number of adults least educated and most in need of assistance participating in the adult education program and (2) the number of agencies, institutions, and organizations—other than local educational agencies—used to provide adult education and support services.

"Immigrant," as used in this part, means any refugee admitted (paroled) into this country or any alien except one who is exempt under the provisions of the Immigration and Nationality Act, as amended.

(8 U.S.C. 1101(a)(15))

"Indochina refugee," as defined in the Indochina Migration and Refugee Assistance Act of 1975, as amended by Pub. L. 94-313, and as used in this part, means an alien who because of persecution or fear of persecution on

account of race, religion, or political opinion; fled from Cambodia, Vietnam, or Laos; cannot return there because of fear of persecution on account of race, religion, or political opinion; and is in urgent need of assistance for the essentials of life.

(22 U.S.C. 2601)

"Institutionalized person" means one who is an inmate, patient, or resident of a penal institution, reformatory, residential training school, orphanage, hospital, school for the physically or mentally handicapped, or general or special institution.

"Limited English proficiency" refers to individuals who have sufficient difficulty speaking, reading, writing, or understanding the English language that they are denied the opportunity to learn successfully in a learning environment where the language of instruction is English.

"Outreach" means activities designed to (1) inform adult populations who are least educated and most in need of assistance of the availability and benefits of the adult education program and (2) assist these adult populations to participate in the program by providing reasonable and convenient access.

(20 U.S.C. 1202)

§§ 166.4-166.9 [Reserved]

II. State-Administered Adult Education Program

Subpart A—General

§ 166.10 What is the adult education State-administered program?

The adult education State-administered program is a cooperative effort between the Federal Government and the States to provide adult education. Federal funds are granted to the States on a formula basis. The States fund local programs of adult education based on need and resources available. A description of the program is included in section 302 of the Act.

(20 U.S.C. 1201)

Subpart B—How a State Applies for a Grant

§ 166.11 Who is eligible?

Any State may apply for a grant under this part.

(20 U.S.C. 1206)

§ 166.12 What documents must a State submit to receive its grant?

A State educational agency shall submit to the Commissioner:

(a) A single State application as required by section 435(b) of the General Education Provisions Act. If a State

educational agency has on file with the Commissioner a single State application for all education programs, this requirement is satisfied.

(b) A State plan, developed once every three years, that meets the requirements of these regulations and the Act.

(c) The certifications required by § 100b.104 of EDGAR.

(20 U.S.C. 1205)

§ 166.13 What must the State plan contain?

(a) A State educational agency shall include in its State plan a description of the policies, procedures, and activities for carrying out the requirements—(1) Listed in section 306(b) of the Act; and

(2) Included in these regulations.

(b) A State educational agency may meet the requirements of section 306(b) (2) and (6) by submitting to the Commissioner a single State application under section 435(b) of the General Education Provisions Act.

(c) A State educational agency shall include in its State plan the program assurances in Appendix A.

(d) A State educational agency shall describe, for the three-year period covered by the plan, the adult education needs of all segments of the adult population in the State. A State educational agency shall specifically describe the needs of those adults who are least educated and most in need of assistance. These special adult populations include, but are not limited to—(1) Adults with limited English language skills;

(2) Adults from urban areas with high rates of unemployment;

(3) Adults from rural areas;

(4) Immigrant adults;

(5) Institutionalized adults;

(6) Elderly persons;

(7) Handicapped adults;

(8) Adults from minority groups; and

(9) Women with special needs.

(e) A State educational agency shall identify the other Federal and non-Federal resources available to meet the needs described in paragraph (d).

(f)(1) A State educational agency shall identify the goals it intends to achieve in meeting the needs described in paragraph (d) for the period covered by the plan.

(2) A State educational agency shall describe proposed activities and expenditures for reaching each goal.

(g)(1) A State educational agency shall describe the outreach activities that the State intends to carry out during the period covered by the plan.

(2) In conjunction with these outreach activities, a State educational agency

shall describe the efforts it will undertake to provide support services during the period covered by the plan. Support services include flexible schedules, transportation, and child care services. A State educational agency shall identify the resources to be used for these support services. A concerted effort shall be undertaken to provide these services through other programs, agencies, and organizations.

(h) A State education agency shall describe its cooperative arrangements with other agencies for delivering adult education and support services.

(i) A State education agency shall describe the criteria for evaluating project applications.

(j)(1) In any plan submitted subsequent to the initial three-year plan under the Act, a State educational agency shall describe its accomplishments in meeting the goals included in the previous three-year plan.

(2) The description shall indicate how the assessment of accomplishments was considered in establishing the State's goals for adult education in the plan being submitted.

(k) A State education agency shall describe its policies, procedures, and activities for carrying out special experimental demonstration projects and teacher training projects that meet the requirements of §§ 166.61 through 166.64 of these regulations.

(l) A State education agency shall provide for an annual evaluation of activities under sections 306 and 310 of the Act. Evaluation procedures and specific criteria to be used in assessing the effectiveness of all activities shall be included in the State plan. A summary of the State's annual evaluation of activities shall be sent to the Commissioner within 90 days of the close of the program year.

(m) A State education agency shall include in the plan a notification of the establishment of and membership of a State advisory council that meets the requirements of section 312 of the Act. Because the Act does not require the State educational agency to establish a State advisory council, only States that fund councils out of the Federal allotment or non-Federal matching funds are subject to the requirements of section 312 of the Act.

(20 U.S.C. 1205)

§ 166.14 How is the State plan developed?

(a) A State education agency shall involve in the development of the plan one or more representatives of each of the following agencies and groups:

- (1) The business community.
- (2) Industry.

(3) Labor unions.

(4) Public educational agencies and institutions.

(5) Private educational agencies and institutions.

(6) Churches.

(7) Fraternal organizations.

(8) Voluntary organizations.

(9) Community organizations.

(10) State manpower and training agencies.

(11) Local manpower and training agencies.

(12) Adult residents of rural areas.

(13) Adult residents of urban areas with high rates of unemployment.

(14) Adults with limited English language skills.

(15) Institutionalized adults.

(16) Other entities concerned with adult education, such as the Right to Read and Basic Skills programs, volunteer literacy programs, libraries, and organizations offering education programs for older persons.

(b) A State educational agency shall describe in its plan—(1) How the representatives in paragraph (a) were selected; and

(2) The means by which these representatives were involved in the development of the plan.

(c) The Commissioner considers the term "involved in the development of the plan" to mean that the representatives in paragraph (a) are given an opportunity to actively participate in all stages of formulating the plan.

(d) If the participating representatives are not able to agree upon the provisions of the final plan, the State educational agency shall make the final decision. A State educational agency shall include in the plan—(1) Any recommendation which is rejected; and

(2) The reasons for rejecting the recommendation.

(20 U.S.C. 1205)

§ 166.15 What other requirements must a State educational agency meet?

(a) A State educational agency shall use a delivery system in which the adult populations in the State that are least educated and most in need of assistance learn most effectively.

(b) A State educational agency shall design a delivery system to allow adult education services to be provided by those agencies that can reach the adult populations most in need. This expansion of the delivery system may require using agencies (i.e., a private for-profit organization) other than applicants eligible for subgrants under the Act.

(H.R. Rept. No. 95-1137, p. 128; Sen. Rept. No. 95-856, p. 103)

(c) If a private for-profit organization is used, a State educational agency or eligible applicant shall enter into a contractual arrangement for the provision of adult educational services. A contract shall be entered into only upon a determination by a State or eligible applicant that—(1) The contract is in accordance with State and local law and Subpart P, Procurement Standards, 45 CFR Part 74; and

(2) The service to be provided will constitute a reasonable and prudent use of funds available under the State plan.

(d) A State educational agency or eligible applicant may enter into a voluntary arrangement with a private for-profit organization for the provision of adult education services. For example, an eligible applicant may enter into a voluntary arrangement with a business organization for the use of facilities, personnel, or other services.

(e) At least annually a State educational agency shall give the representatives listed in § 166.14(a) of these regulations the opportunity to comment on—(1) How the State educational agency is carrying out the plan; and

(2) The expansion of the delivery system for providing adult educational services.

(f) A State educational agency shall consider the comments submitted under paragraph (e) in carrying out its State plan. A State educational agency shall include these comments in its subsequent three-year plan.

(20 U.S.C. 1205)

§ 166.16-166.20 [Reserved]

Subpart C—How a Grant Is Made to a State

§ 166.21 How is the amount of each State's grant determined?

(a) The Commissioner determines the amount of each State's grant according to the formula in section 305(a) of the Act.

(b) The Commissioner, from a one percent reserve, determines the amount of the grants to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

(20 U.S.C. 1206)

§ 166.22 What is each State's limitation on administrative costs?

The Commissioner notifies each State annually of the maximum amount allowable for administrative activities under section 315(b) of the Act. The non-

Federal share of funds available under the State plan may also be used to pay administrative costs.

(20 U.S.C. 1211)

§§ 166.23-166.30 [Reserved]

Subpart D—How To Apply to the State for a Subgrant

§ 166.31 Who is eligible for a subgrant?

(a) A State educational agency shall distribute grants on the basis of annual applications submitted by eligible applicants. Eligible applicants are local educational agencies and public or private nonprofit agencies, organizations, and institutions.

(b) A State educational agency may not review an annual application from a public or private nonprofit agency, organization, or institution other than a local educational agency unless this applicant—(1) Provides documentation to the State that advice and guidance on the development of its annual application have been sought from the applicable local educational agency. For the purpose of this section, "applicable local educational agency" refers to the legally constituted public board of education or administrative agency located in the same city, county, township, school district, or other political subdivision of the State to be served by the application; and

(2) Provides the local educational agency the opportunity to comment on the application prior to submitting it to the State.

(c) A State that is prohibited by State law from awarding Federal funds by grant or contract to public or private nonprofit agencies, other than local educational agencies shall—(1) Include in its State plan the legal basis of this prohibition; and

(2) Give priority to local educational agencies that propose to enter into cooperative arrangements with public or private nonprofit agencies for the delivery of services.

(d) A State educational agency shall give public notification of the availability of Federal and State funds to eligible applicants.

(1) For the purpose of notifying local educational agencies, a State educational agency shall provide the notice directly.

(2) For the purpose of notifying public or private nonprofit agencies, organizations, and institutions, a State educational agency shall give sufficient public notice throughout all regions of the State.

(20 U.S.C. 1203)

§ 166.32-166.40 [Reserved]

Subpart E—How a Subgrant Is Made to an Applicant

§ 166.41 How will a State review annual applications?

(a) A State educational agency shall review annually all applications submitted by eligible applicants to determine if the requirements of § 166.31 are satisfied. A State educational agency shall disapprove applications that fail to meet the requirements of § 166.31

(b) In evaluating the quality of applications, a State educational agency shall employ a competitive process which considers the best possible combination of agencies, organizations, and institutions. In developing objective criteria for review of applications, a State educational agency shall take into account the following factors:

(1) The needs of the population to be served by the applicant.

(2) The extent to which the applicant proposes projects to reach adult populations least educated and most in need of assistance.

(3) The extent to which the applicant gives special emphasis to adult basic education projects.

(4) The adequacy of outreach activities, including—(i) Flexible schedules to accommodate the greatest number of adults who are least educated and most in need of assistance;

(ii) Locations of facilities offering programs that are convenient to large concentrations of the adult populations identified in § 166.13(e) of these regulations or how the locations of facilities will be convenient to public transportation; and

(iii) The availability of child care services to participants in the project.

(5) The extent to which cooperative arrangements with other agencies will be used for delivering adult education and support services.

(6) The resources available to the applicant—other than Federal and State adult education funds—to meet those needs (e.g., the Comprehensive Employment and Training Act (CETA), Title XX of the Social Security Act, local cash or in-kind contributions).

(7) The extent to which the proposed activity addresses the identified needs.

(8) The extent to which the project objectives can be accomplished within the amount of the budget request.

(c) A State educational agency shall describe in its State plan the method of determining the amount of funds to be distributed to applicants approved for funding.

(d) A State that is prohibited by State law from awarding Federal funds by grant or contract to public or private nonprofit agencies, other than local educational agencies, shall describe in its State plan how priority will be given to local educational agencies that propose to enter into cooperative arrangements with public or private nonprofit agencies for the delivery of services.

(20 U.S.C. 1205)

§§ 166.42-166.50 [Reserved]

Subpart F—Conditions That Must Be Met by the State

§ 166.51 What are the matching requirements of the program?

The Federal share of expenditures made under the State plan shall not exceed 90 percent.

(b) No matching is required for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c)(1) The non-Federal share of expenditures under the State plan shall be the difference between the Federal share and the total expenditures for the purposes for which the Federal share is paid.

(2) The non-Federal share of expenditures under the State plan may be computed on a statewide basis and may come from any source other than Federal assistance so long as these expenditures are made to further the purposes of the State plan approved under this part.

(20 U.S.C. 1206)

§ 166.52 What are the maintenance of effort requirements of the program?

(a)(1) To be eligible for Federal funds a State shall maintain its fiscal effort.

(2) A State shall expend for adult education from non-Federal sources an amount equal to the fiscal effort of the State in the previous fiscal year.

(3) A State may determine its fiscal effort on a per student basis or on a total expenditure basis.

(b) The Commissioner does not make any payment to a State in any fiscal year unless the Commissioner finds that the fiscal effort of a State for adult education for the preceding fiscal year was not less than the fiscal effort expended for adult education purposes during the second preceding fiscal year.

(20 U.S.C. 1206)

§ 166.53 How is a waiver granted?

(a) During the life of the Act, the Commissioner may waive for one fiscal year only the maintenance of effort

requirement in section 307(b) of the Act if the Commissioner determines it would be equitable to do so in view of exceptional and unforeseen circumstances affecting the State.

(b)(1) If a State educational agency wishes to receive a waiver from the maintenance of effort requirement under § 166.52(a) of these regulations, the State educational agency shall submit a request for a waiver with its three-year State plan or as an amendment to the plan.

(2) A State educational agency shall include in the request for a waiver the reason for the request and any additional information the Commissioner may require.

(20 U.S.C. 1232-1)

§ 166.54 What are exceptional and unforeseen circumstances?

(a) The Commissioner considers exceptional and unforeseen circumstances to include situations in which the State educational agency or local educational agency had no control of the events resulting in decreased expenditures but made a reasonable effort in a timely fashion to comply with the maintenance of effort requirement of the Act.

(b) Exceptional and unforeseen circumstances include, but are not limited to, the following situations:

(1) A sudden, substantial reduction in available revenue due to—(i) A natural or man-made disaster;

(ii) The unforeseen removal of property from the tax roll by government action; or

(iii) The unforeseen departure of an industrial or commercial facility.

(2) A sudden and substantial diversion of available revenue to other purposes outside the control of the State or local educational agency.

(3) Decreased expenditures by the State that are directly attributable to strikes involving educational or service personnel or both.

(4) Reductions of services to adults that are directly attributable to energy shortages or conservation measures resulting in a general reduction of educational services throughout the State or any of its local educational agencies.

(20 U.S.C. 1232-1)

§ 166.55 How is maintenance of effort computed in the event of a waiver?

(a) In any case in which the Commissioner grants a waiver to a State under these regulations, the Commissioner reduces the amount of the Federal payment to that State for the current fiscal year in the exact

proportion to which the fiscal effort of the State was less than 100 percent of its fiscal effort for the second preceding fiscal year. For example, if a State, having received a waiver under this section, reduced its expenditures in the preceding fiscal year 20 percent below the second preceding fiscal year, the Commissioner reduces the amount of the Federal payment for the current fiscal year by 20 percent.

(b) Fiscal effort for the year following the year for which a waiver is granted shall be based on the level of effort that existed prior to the waiver. For example, if in FY 1981 a State receives a waiver for its failure in FY 1980 to maintain fiscal effort at the level established in FY 1979, the State shall compute its fiscal effort for FY 1981 on the basis of the fiscal effort for FY 1979.

(20 U.S.C. 1232-1)

§ 166.56 What are the percentage requirements with respect to State distribution of Federal funds?

(a) The percentage requirements in this section are applicable to a State's grant under section 305 of the Act.

(b) A State educational agency may expend an amount not to exceed 20 percent of its grant for programs of equivalency for a certificate of graduation from a secondary school.

(c) A State educational agency shall expend an amount not less than 10 percent of its grant for special experimental demonstration projects and teacher training projects described in §§ 166.61 through 166.64.

(d) A State educational agency may expend an amount not more than 20 percent of its grant for the education of institutionalized adults.

(20 U.S.C. 1203; 20 U.S.C. 1205; 20 U.S.C. 1208)

§§ 166.57-166.60 [Reserved]

Subpart G—State-Administered Special Experimental

Demonstration Projects and Teacher Training Projects.

§ 166.61 Who are the eligible applicants for these projects?

(a)(1) Eligible applicants include any State or local educational agency or public or private nonprofit agency, organization, or institution.

(2) Unless precluded by State law, individuals are eligible applicants.

(b) A State may award funds under this subpart to eligible applicants outside the boundaries of the State if that award is determined to be in the best interest of the State in meeting its priorities and the purposes of the Act.

(20 U.S.C. 1208)

§ 166.62 What are the criteria and priorities in administering these projects?

(a)(1) A State educational agency shall establish its own statewide criteria and priorities for administering special projects and teacher training projects.

(2) A State educational agency shall include the criteria and priorities in the State plan.

(3) In establishing statewide criteria and priorities, a State educational agency shall give consideration to serving adults who are least educated and most in need of assistance.

(b)(1) The Commissioner publishes national priorities in adult education in the Federal Register.

(2) Each State shall indicate in its State plan how the statewide criteria and priorities relate to published national priorities.

(20 U.S.C. 1208)

§ 166.63 How will a State administer these projects?

(a) A State educational agency shall—
(1) Administer these projects consistent with the other regulations listed in § 166.2 of these regulations;

(2) Make a general announcement of the availability of Federal and State funds for special projects and teacher training projects;

(3) Establish procedures for submitting and reviewing applications. These procedures shall be consistent with Subparts D and E of 100b of EDGAR; and

(4) Distribute funds to applicants approved for funding on the basis of the criteria and priorities developed under § 166.62 of these regulations.

(b) A State educational agency may—
(1) Approve projects for a multi-year period; and

(2) In accordance with State law, policies, and procedures, make provisions for stipends and travel allowances for participants in teacher training projects.

(20 U.S.C. 1208)

§ 166.64 How will the results be disseminated?

(a)(1) A State educational agency shall develop and describe in its State plan the procedures for disseminating results of these activities.

(2) A copy of each final report of special projects and teacher training projects supported under this subpart shall be sent to—(i) The Commissioner; and

(ii) The adult education information clearinghouse established under section 309(a)(1)(C) of the Act.

(20 U.S.C. 1208)

§ 166.65—166.100 [Reserved]

III. National Adult Education Development and Dissemination Program and Planning Grants

Subpart A—General

§ 166.101 What are the National Adult Education Development and Dissemination Program and Planning Grants?

This program provides Federal assistance for development, demonstration, and dissemination projects that are of national significance to, or that will improve the adult education program. Planning grants provide Federal assistance to State educational agencies to plan for the expansion of their systems for the delivery of adult education services. This program is authorized under section 309 of the Act.

(20 U.S.C. 1207a)

§ 166.102 Who is eligible to apply for a grant?

(a) For a planning grant, only a State educational agency is eligible to apply.

(b) For all other projects, eligible applicants include public and private nonprofit agencies, institutions, and organizations.

(20 U.S.C. 1207a)

§ 166.103—166.110. [Reserved]

Subpart B—Kinds of Projects the Office of Education May Assist Under These Programs

§ 166.111 What types of projects may be funded?

(a) The Commissioner may fund projects and activities that improve and promote effective adult education programs and further the purposes of the Act by—(1) Carrying out demonstration activities; and

(2) Developing, evaluating, and disseminating systems, materials, new approaches, and innovative methods.

(b) The Commissioner may award a planning grant to a State educational agency to plan the expansion of its adult education delivery system that—(1) Uses a participatory process for identifying the adult education needs within the State;

(2) Develops a coordinated strategy to meet the adult education needs of the State; and

(3) Involves local educational agencies, business, industries, community organizations, and other institutions.

(c) Projects under paragraph (a) of this section shall address national priorities established and announced in the

Federal Register by the Commissioner. The Commissioner will invite public comment on the national priorities.

(d) The Commissioner may fund one or more of the types of projects described in paragraphs (a) and (b) of this section.

(20 U.S.C. 1207a)

§ 166.112—166.120 [Reserved]

Subpart C—How To Apply for a Grant

§ 166.121 What must an application for a grant contain?

An application shall contain—

(a) Information required by the Notice of Closing Date published in the Federal Register;

(b) Information that meets the application content requirements of §§ 100a.108 through 100a.116 of EDGAR;

(c) For a multi-year or for subsequent years of a development or dissemination project, information that meets the requirements of §§ 100a.117, 100a.118, and 100a.250 through 100a.253 of EDGAR; and

(d) Any additional information required by the Commissioner in the application package.

(20 U.S.C. 1207a)

§ 166.122 What is the duration of a project grant?

(a) A grant period is for not more than one year.

(b) Development and dissemination projects may be approved for a multi-year period.

(c) Planning grants may be approved for a period of not more than one year.

(20 U.S.C. 1207a)

§ 166.123—166.130 [Reserved]

Subpart D—How a Grant Is Made

§ 166.131 What are the selection criteria for evaluating applications?

(a) The Commissioner evaluates applications that meet the requirements of these regulations according to the criteria published in §§ 100a.202 through 100a.206 of EDGAR. Each criterion is weighted and includes the maximum score that can be given for that criterion, with the total number of points equaling 100. Applications are judged on the basis of the extent to which each criterion is met.

(b) The maximum number of points assigned to the five selection criteria in EDGAR are as follows:

Plan of operation (40 points).
Quality of key personnel (20 points).
Budget and cost effectiveness (15 points).

Evaluation plan (10 points).

Adequacy of resources (15 points).

(20 U.S.C. 1207a)

§ 166.132—166.140 [Reserved]

Subpart E—Conditions That Must Be Met by a Grantee

§ 166.141 What are the cost requirements under this program?

(a) Allowable costs under grants awarded under section 309 of the Act are determined in accordance with the applicable cost principles of §§ 100a.530 through 100a.534 of EDGAR and Subpart Q of 45 CFR Part 74.

(b) No cost sharing is required.

(c) Neither stipends nor dependency allowances are allowable.

(d) Projects combining funds under section 309 of the Act with other Federal, State, or local funds shall contain provisions for separate accounting.

(20 U.S.C. 1207a)

§ 166.142 What documents must a State educational agency have on file with the Commissioner to be eligible for a planning grant?

A State educational agency must have on file with the Commissioner—

(a) An approved three-year plan. Regulations governing the development, submission, and approval of that plan are in §§ 166.1 through 166.64 of these regulations.

(b) A single State application required by section 435(b) of the General Education Provisions Act.

(20 U.S.C. 1207a)

§ 166.143 What records and reports and required of the grantee?

(a) A grantee shall keep records that meet the requirements in §§ 100a.730 through 100a.734 of EDGAR.

(b) A grantee shall submit reports as part of the financial and performance reporting requirements of § 100a.720 of EDGAR and Subparts I and J of 45 CFR Part 74.

(20 U.S.C. 1207a)

§ 166.144—166.200 [Reserved]

IV. Adult Education Programs for Immigrants and Indochina Refugees

Subpart A—General

§ 166.210 What are the adult education programs for immigrants and Indochina refugees?

These programs provide Federal assistance to operate special adult education projects for immigrants and for Indochina refugees.

These programs are authorized under sections 318 and 317 of the Act.

(20 U.S.C. 1211c, 1211b)

§ 166.202 Who is eligible to apply for a grant?

(a) Only the following are eligible to apply for a grant to operate an adult education project for immigrants:

- (1) State educational agencies.
- (2) Local educational agencies.
- (3) Public nonprofit agencies, organizations, or institutions.
- (4) Private nonprofit agencies, organizations, or institutions.

(b) Only the following are eligible to apply for a grant to operate an adult education project for Indochina refugees:

- (1) State educational agencies.
- (2) Local educational agencies.

(20 U.S.C. 1211c, 1211b)

§§ 166.203-166.210 [Reserved]**Subpart B—Kinds of Projects the Office of Education May Assist Under These Programs****§ 166.211 What is a special adult education project for immigrants or Indochina refugees?**

(a) The Commissioner funds projects that—

- (1) Facilitate the integration of adult immigrants or adult Indochina refugees into American society; and
- (2) Contribute to the employability of adult immigrants or adult Indochina refugees through development of basic educational and occupational skills.

(b) The purposes for which funds may be used under these programs are expressly stated in sections 318(a) and 317(a) of the Act.

(20 U.S.C. 1211c, 1211b)

§ 166.212 What is the target population to be served by a project?

(a) Only adult immigrants, as defined in § 166.3(d) of these regulations, are eligible to participate in projects funded under the adult education program for immigrants.

(b)(1) Only an adult Indochina refugee who possesses an INS Form I-94 may participate in a project assisted under the adult education program for Indochina refugees, except as provided in paragraph (b)(2) of this section. Form I-94, issued by the United States Immigration and Naturalization Service, indicates that the refugee has been admitted (paroled) into the United States or has been granted voluntary departure status.

(2) Participation of a very limited number of adults other than Indochina refugees is not precluded where the special needs of the Indochina refugees, as included in the application, are being met. This participation of non-Indochina

refugees shall not result in a reduction in the quality or quantity of services to the target population as described in paragraph (b)(1) of this section.

(20 U.S.C. 1211c, 1211b)

§§ 166.213-166.220 [Reserved]**Subpart C—How To Apply for a Grant****§ 166.221 What must an application for a grant contain?**

An application shall contain—

(a) Information required by the Notice of Closing Date published in the Federal Register;

(b) Information that meets the application content requirements of §§ 100a.108 through 100a.116 of EDGAR; and

(c) Any additional information required by the Commissioner in the application package.

(20 U.S.C. 1211c, 1211b)

§ 166.222 State review of applications.

(a)(1) An applicant for a grant under the adult education program for immigrants shall first submit a copy of its application to the State educational agency (for the State in which that applicant is located). The State educational agency shall expeditiously review the application in accordance with the provisions of §§ 100a.156 through 100a.159 of EDGAR.

(2) The State educational agency shall include in its comments submitted to the Commissioner whether the application is consistent with the State plan's objectives for meeting the adult education needs of adult immigrants.

(3) The State educational agency shall provide a copy of its comments and recommendations to the applicant.

(b)(1) The Commissioner does not approve an application for a grant under the adult education program for Indochina refugees unless the State educational agency (for the State in which that applicant is located) assures the Commissioner that the proposed activity will not duplicate existing and available (Federal and non-Federal) adult education programs that meet the adult Indochina refugees.

(2) An applicant shall submit a copy of its application to its State educational agency in accordance with the provisions of §§ 100a.156 through 100a.159 of EDGAR.

(20 U.S.C. 1211c, 1211b)

§ 166.223 What is the duration of Federal support?

Projects may be approved for a period of not more than one year.

(20 U.S.C. 1211c, 1211b)

§ 166.224-166.230 [Reserved]**Subpart D—How a Grant Is Made****§ 166.231 What are the selection criteria for evaluating applications?**

(a) The Commissioner evaluates applications that meet the requirements of these regulations according to the criteria published in §§ 100a.202 through 100a.206 of EDGAR and the program criteria given in paragraph (c) of this section. Each criterion is weighted and includes the maximum score that can be given for that criterion, with the total number of points equaling 100. Applications are judged on the basis of the extent to which each criterion is met.

(b) The maximum number of points assigned to the five selection criteria in EDGAR are as follows:

Plan of operation (30 points).

Quality of key personnel (15 points).

Budget and cost effectiveness (5 points).

Evaluation plan (5 points).

Adequacy of resources (10 points).

(c) Specific program selection criteria and points assigned are as follows:

(1) *Need* (10 points). The application—

(i) Describes the need for the proposed educational activity;

(ii) Provides specific evidence of the need;

(iii) Describes, where appropriate, current and planned activities in the community relative to the need; and

(iv) Provides reasonable assurance that the population group to whom the project is addressed will participate in the project if it is available.

(2) *Reaching the geographically isolated* (5 points). The application provides for meeting the educational needs of previously unserved adult immigrants or adult Indochina refugees living in isolated geographic areas.

(3) *Cooperative arrangements* (20 points). The application clearly describes arrangements and support services to be provided by existing agencies in order to maximize the impact of the proposed project. The types of agencies with which cooperative arrangements are encouraged include, but are not limited to: voluntary agencies; sponsor groups; public assistance agencies; social/vocational rehabilitation services; business and industry; social organizations; health services; legal aid; and other agencies operating State and local educational, employment, and training programs.

(20 U.S.C. 1211c, 1211b)

§§ 166.232-166.240 [Reserved]

Subpart E—Conditions That Must Be Met by a Grantee**§ 166.241 What are the cost requirements under these programs?**

(a) Allowable costs under grants awarded under the adult education programs for immigrants and Indochina refugees are determined in accordance with the applicable cost principles of §§ 100a.530 through 100a.534 of EDGAR and Subpart Q of 45 CFR Part 74.

(b) No cost sharing is required.

(c) Neither stipends nor dependency allowances are allowable.

(d) The cost of child care, not to exceed 5 percent of the grant award, may be allowed only if the applicant can demonstrate that—

(1) The absence of this service is a barrier to providing effective educational services; and

(2) The services of volunteers or other community agencies are not available for this purpose.

(e) A grantee may not, under any circumstances, make payments for child care directly to participants.

(f) Transportation costs of participants are allowable up to one percent of the grant award. If more than one percent is necessary, the applicant shall include in its application a justification demonstrating exceptional need.

(g) The cost of developing curriculum materials is allowable up to one percent of the grant award. If more than one percent is necessary, the applicant shall include in its application a justification demonstrating that appropriate materials do not exist or cannot be obtained from existing sources.

(h) The cost of pre-service or in-service training of personnel is allowable up to one percent of the grant award. If more than one percent is necessary, the applicant shall include in its application a justification demonstrating that the required competence is not otherwise available on a cost-effective basis.

(i) Projects combining funds under the adult education programs for immigrants or Indochina refugees with other Federal, State, or local funds shall contain provisions for separate accounting.

(20 U.S.C. 1211c, 1211b)

§ 166.242 What records and reports are required of the grantee?

(a) A grantee shall keep records that meet the requirements in §§ 100a.730 through 100a.734 of EDGAR.

(b) A grantee shall submit reports as part of the financial and performance reporting requirements in § 100a.720 of EDGAR and Subparts I and J of 45 CFR Part 74.

(20 U.S.C. 1211c, 1211b).

§§ 166.243-166.300 [Reserved]

Note.—The following appendices will not appear in the Code of Federal Regulations.

Appendix A—Program Assurances by State Educational Agency

The (Officially designated State educational agency) of the State of _____ assures the U.S. Commissioner of Education that this State plan will be administered in accordance with the following provisions:

(1) The State educational agency, in carrying out the adult education program, will provide for: (a) adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils; State occupational information systems, and other agencies, organizations, and institutions in the State that operate employment and training programs or other educational or training programs for adults; and (b) coordination of programs carried on under this title with other programs, including reading improvement programs, which are designed to provide reading instruction for adults and are conducted by State and local agencies.

(2) The State educational agency will make available not to exceed 20 percent of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school.

(3) The statement checked below reflects the State's maintenance of effort for the preceding fiscal year:

_____ (a) The State had available for expenditure for adult education from non-Federal sources for the preceding fiscal year an amount that was not less than the fiscal effort per student or the aggregate amount expended for adult education purposes from non-Federal sources during the second preceding fiscal year; or

_____ (b) Because of exceptional and unforeseen circumstances, the State is submitting as an attachment to this plan— together with supporting documentation—a request for a waiver from the maintenance of effort requirement.

(4) The State educational agency will monitor and report program performance in accordance with Subpart J of 45 CFR Part 74.

The State plan for the adult education State-administered program is submitted by

(Name of State Agency)

on _____

(Date)

By: _____

(Signature of authorized official)

(Title)

Appendix B—Priorities for Programs of National Significance

For the guidance of State educational agencies the Commissioner suggests that the following national priorities merit special consideration by States in meeting the special project and staff development needs of their adult education programs under §§ 166.61 through 166.64 of these regulations and section 310 of the Act. These priorities are intended to be responsive to the 1978 amendments to the Adult Education Act.

(1) Expanding outreach to those adults least educated and most in need.

Evidence indicates that the adult education program is not adequately meeting the needs of significant segments of the adult population that are most in need of and least likely to participate in adult education. New and innovative approaches will be required to expand outreach in order to effectively meet the needs of underserved populations, including adults who are: older persons; rurally isolated; located in urban areas of high unemployment; handicapped; immigrants; refugees; limited in English language proficiency; female offenders; single parent mothers; or displaced homemakers. In considering support for outreach efforts States should insure careful attention to innovative plans for informing underserved populations of the availability and benefits of the adult education program and of plans to provide reasonable and convenient access to the program.

States are encouraged to support projects such as those that—

(a) Develop new and promising approaches to coordination with business and industry, labor unions, community organizations, and other non-governmental agencies;

(b) Prepare adult education personnel to serve those populations indicated above;

(c) Develop barrier-free and appropriate services based on the needs and life experiences of the learners; and

(d) Use mass media and technological innovations to increase outreach.

(2) Identifying and preparing for new and emerging roles.

The 1978 amendments to the Adult Education Act emphasize expanded outreach to the least educated adults to enable them to acquire the basic skills necessary to function in society. Adult education personnel will need to perform new or expanded roles to fully implement this objective in the law.

States are encouraged to support projects such as those that—

(a) Involve both adult education personnel and adult learners in educational program planning and implementation;

(b) Assist adult education personnel to identify and use non-traditional learning settings in which adult learners can interact with their peers;

(c) Assist in developing the adult's ability to cope with personal and family changes that occur with increased education, independence, and life options; and

(d) Assist adult education personnel to develop their own understanding of and ability to cope with the cultures, life-styles, and mores of the adults they serve, as well as

the values and value systems in the American culture.

(3) *Mastering basic and life skills necessary to function effectively.*

A mastery of basic and life skills is fundamental to the effective functioning of adults in their own environments and in society at large. Without these skills, certifications are meaningless; and opportunities for employment and a productive life are limited.

As a means of addressing this concern, States are encouraged to support projects such as those that—

(a) Assess the statewide educational needs of adults who are least educated and most in need of assistance;

(b) Assess the skill levels of individual adult learners as a basis for providing meaningful and effective developmental experiences;

(c) Develop competency-based curriculums designed to develop specific skills; and

(d) Produce competency-based adult education materials designed to enable the underserved adult to successfully make the transition from a limited and limiting environmental to functioning and coping in a larger and frequently different society.

(4) *Dissemination in adult education.*

Adult education personnel have only limited means for learning of or assessing the kinds and quality of improved practices and products generated in adult education. Many States do not have a mechanism for systematic retrieval, review, assessment, diffusion, and adoption or adaption of improved practices and products. Without these capabilities, programs duplicate effort, lack planning ability, and continue traditional, non-progressive educational strategies.

States are encouraged to support projects such as those that—

(a) Develop a mechanism to locate improved practices and products and potential users of those practices and products;

(b) Disseminate the practices and products to users; and

(c) Provide training or assistance for adoption or adaption by users.

Appendix C—The Adult Education Act

Short Title

Sec. 301. This title may be cited as the "Adult Education Act".¹

Statement of Purpose

Sec. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(1) enable all adults to acquire basic skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.

Definitions

Sec. 303. As used in this title—

(a) The term "adult" means any individual who has attained the age of sixteen.

(b) The term "adult education" means services or instruction below the college level (as determined by the Commissioner), for adults who—

(1) lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

(2) are not currently required to be enrolled in schools.

(c) The term "adult basic education" means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

(d) The term "Commissioner" means the Commissioner of Education.

(e) The term "Community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(g) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico and (except for the purposes of section 305(a)) Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and

secondary schools; or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

(i) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(j) The term "institution of higher education" means any such institution as defined by section 801(e) of the Elementary and Secondary Education Act of 1965.

Grants to States

Sec. 304. (a) The Commissioner is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and by public or private non-profit agencies, organizations, and institutions and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.

(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.

Allotment for Adult Education

Sec. 305. (a) From the sums available for purposes of section 304(a) for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Commissioner shall allot (1) not more than 1 per centum thereof among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) \$150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. From the sums

¹ This is a compilation of the Adult Education Act, Public Law 91-230, and all of its amendments through November 1, 1978.

available for purposes of section 304(a) for the fiscal year ending June 30, 1970, and the succeeding fiscal year, the Commissioner shall make allotments in accordance with section 305(a) of the Adult Education Act of 1966 as in effect on June 30, 1969.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the State plan approved under this title shall be available for reallocation from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts are not so reduced. Any amount reallocated to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

State Plans

Sec. 306. (a) A State shall be eligible to receive its allotment under section 305 if—

(1) it has on file with the Commissioner a general State application under section 435 of the General Education Provisions Act, and

(2) it has submitted to the Commissioner at such times (not more frequently than one every three years), and in such detail, as the Commissioner shall prescribe a State plan meeting the requirements of subsection (b).

(b) A State plan under this title shall—

(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults;

(2) provide for the administration of the program by the State educational agency;

(3) describe the procedures the State will use to insure that in carrying out such program there will be adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in

meeting those needs over the period covered by the plan;

(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

(6) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverity programs, and community organizations;

(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations;

(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965) by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII and bilingual vocational education programs under the Vocational Education Act of 1963;

(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

(13) set forth the criteria by which the State will evaluate the quality of proposals from

local agencies, organizations, and institutions; and

(14) provide such further information and assurances as the Commissioner may by regulation require, including information regarding the extent to which the goals of the program have been achieved during the preceding three years.

(c) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

Payments

Sec. 307. (a) The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum.

(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

Operation of State Plans; Hearings and Judicial Review

Sec. 308. (a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 306, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

(b) A State educational agency dissatisfied with a final action of the Commissioner under section 306 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner or any officer designated by

him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

Research, Development, Dissemination, Evaluation, and Information Clearinghouse

Sec. 309. (a)(1) Subject to appropriations under this section, the Commissioner shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

(A) to develop new and promising approaches and innovative methods which are designed to address those problems and which may have national significance or be of special value in promoting effective programs under this Act, including one-year grants to States to plan for the expansion of their systems for the delivery of adult education services;

(B) to determine, using appropriate objective evaluation criteria, which projects and approaches assisted under clause (A) and under section 310 of this Act have achieved their stated goals and are capable of achieving comparable levels of effectiveness at additional locations; and

(C) to disseminate throughout the Nation information about those approaches or methods pertaining to adult basic education which are most effective, by establishing and operating a clearing-house on adult education which shall collect, select, and disseminate to the public information pertaining to the education of adults, those approaches and methods of educating adults which are most effective, and ways of coordinating adult education programs with manpower and other education programs.

(2) The Commissioner shall directly, and through grants and contracts with public and private agencies, institutions and organizations, evaluate the effectiveness of

programs conducted under section 304 of this Act.

(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act and subject to appropriations under this section, the Director of the National Institute of Education, in consultation with the Commissioner, shall directly and through grants and contracts with public and private agencies, institutions, and organizations, carry out a program to conduct research on the special needs of individuals requiring adult education.

(c) There are authorized to be appropriated for the purposes of this section \$1,500,000 for the fiscal year ending September 30, 1980, \$2,000,000 for the fiscal year ending September 30, 1981, and \$3,000,000 for each succeeding fiscal year prior to October 1, 1983.

Use of Funds for Special Experimental Demonstration Projects and Teacher Training

Sec. 310. Of the funds allotted to a State under section 305 for a fiscal year, not less than 10 per centum shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this title, and which—

(A) involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

(B) involve programs of adult education, including education for persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

Special Projects for the Elderly

Sec. 311. (a) The Commissioner is authorized to make grants to State and local educational agencies or other public or private non-profit agencies for programs to further the purpose of this Act by providing educational programs for elderly persons whose ability to speak and read the English language is limited and who live in an area with a culture different than their own. Such programs shall be designed to equip such elderly persons to deal successfully with the practical problems in their everyday life, including the making of purchases, meeting their transportation and housing needs, and complying with governmental requirements such as those for obtaining citizenship, public assistance and social security benefits, and housing.

(b) For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, and

each succeeding fiscal year ending prior to October 1, 1983.

(c) In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965.

State Advisory Councils

Sec. 312. (a) Any State which receives assistance under this title may establish and maintain a State advisory council, or may designate and maintain an existing State advisory council, which shall be, or has been, appointed by the Governor or, in the case of a State in which members of the State board which governs the State education agency are elected (including election by the State legislature), by such board.

(b)(1) Such a State advisory council shall include as members persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the state educational agency or of local educational agencies of that State, persons who are or have received adult educational services, and persons who are representative of the general public.

(2) Such a State advisory council, in accordance with regulations prescribed by the Commissioner, shall—

(A) advise the State educational agency on the development of, and policy matters arising in, the administration of the State plan approved pursuant to section 306;

(B) advise with respect to long-range planning and studies to evaluate adult education programs, services, and activities assisted under this Act; and

(C) prepare and submit to the State educational agency, and to the National Advisory Council on Adult Education established pursuant to section 313, an annual report of its recommendations, accompanied by such additional comments of the State educational agency as that agency deems appropriate.

(c) Upon the appointment of any such advisory council, the appointing authority under subsection (a) of this section shall inform the Commissioner of the establishment of, and membership of, its State advisory council. The Commissioner shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b)(1) of this section.

(d) Each such State advisory council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (c) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council, except that such rules shall provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning adult education.

(e) Each such State advisory council is authorized to obtain the services of such

professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section.

National Advisory Council on Adult Education

Sec. 313. (a) The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the "Council").

(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1984.

(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

(d) The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of the Council with that of other related advisory councils.

Limitation

Sec. 314. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means in institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

Appropriations Authorized

Sec. 315. (a) Except as otherwise provided, there are authorized to be appropriated

\$210,000,000 for fiscal year 1979; \$230,000,000 for fiscal year 1980; \$250,000,000 for fiscal year 1981; \$270,000,000 for fiscal year 1982; and \$290,000,000 for fiscal year 1983 to carry out the provisions of this title.

(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) for that year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this title. The amount provided to a State under this subsection shall not be less than \$50,00 for any fiscal year, except that such amount shall not be less than \$25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Improvement of Educational Opportunities for Adult Indians

Sec. 316. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provisions of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) The Commissioner is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs, in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(d) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such applications, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) For the purpose of making grants under this section there are hereby authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1973, and \$3,000,000 for each of the succeeding fiscal years ending prior to October 1, 1983.

Emergency Adult Education Program for Indochina Refugees

Sec. 317. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1983, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—

(1) programs of instructions of adult refugees in basic reading, mathematics, development and enhancement of necessary skills, and promotion of literacy among refugee adults, for the purpose of enabling them to become productive members of American society;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the needs of adult refugees, including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b) The Commissioner shall not approve an application for a grant under this section unless (1) in the case of an application by a local education agency, it has been reviewed by the respective State education agency which shall provide assurance to the Commissioner that, if approved by the Commissioner, the grant will not duplicate existing and available programs of adult education which meet the special needs of Indochina refugees, and (2) the application includes a plan acceptable to the Commissioner which provides reasonable assurances that adult refugees who are in need of a program are located in an area near that State or local education agency, and would participate in the program if available.

(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

(d) Notwithstanding the provisions of sections 305 and 307(a), the Commissioner shall pay all the costs of applications approved by him under this section.

Adult Education Program for Adult Immigrants

Sec. 318. (a) The Commissioner is authorized to enter into grants and contracts with State and local education agencies and other public or private nonprofit agencies, organizations, or institutions to provide programs of adult education and adult basic education to immigrant adults in need of such services. Such grants and contracts may be used for—

(1) programs of instruction of adult immigrants in basic reading, mathematics, development and enhancement of necessary skills, and promotion of illiteracy among adult immigrants for the purpose of enabling them to become productive members of American society;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of adult immigrants including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b)(1) Any applicant for a grant or contract under this section shall first submit its application to the State educational agency. The State educational agency shall expeditiously review and make recommendations to the Commissioner regarding the quality of each such application, consistent with the purposes of section 306(b) (12) and (13) of this title. A copy of the recommendations made by the State educational agency shall be simultaneously submitted to the applicant.

(2) Any applicant which has submitted an application in accordance with paragraph (1) of this subsection, which is dissatisfied with the action of the appropriate State

educational agency may petition the Commissioner to request further consideration by the Commissioner of such application.

(c) Applications for a grant or contract under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

(d) Notwithstanding the provisions of sections 305 and 307(a), the Commissioner shall pay all the costs of applications approved by him under this section.

(e) Not less than 50 per centum of the funds appropriated under this section shall be used by the Commissioner to enter into contracts with private nonprofit agencies, organizations, and institutions.

(f) For the purposes of making grants and entering into contracts under this section, there is hereby authorized to be appropriated such sums as may be necessary for fiscal year 1979 and each of the four succeeding fiscal years.

Legislative History

P.L. 89-750, Nov. 3, 1966, Title III, 80 Stat. 1191;

P.L. 90-247, Jan. 2, 1968, Title V, 81 Stat. 815;

P.L. 90-576, Oct. 16, 1968, 81 Stat. 1095;

P.L. 91-230, April 13, 1970, Title III, 84 Stat. 159;

P.L. 91-600, Dec. 30, 1970, 84 Stat. 1669;

P.L. 92-318, June 23, 1972, 86 Stat. 342;

P.L. 93-29, May 3, 1973, 87 Stat. 59;

P.L. 93-380, Aug. 21, 1974, Title VI, Part A, 88 Stat. 570;

P.L. 94-405, Sept. 10, 1976, Title III;

P.L. 94-482, Oct. 12, 1976, Title III;

P.L. 95-112, Sept. 24, 1977, 91 Stat. 911; and

P.L. 95-561, Nov. 1, 1978, Title XIII, Part A.

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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
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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DOT/FRA*	LABOR		DOT/FRA*	LABOR
CSA	HEW/FDA		CSA	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 June 14, 1979, the Urban Mass Transportation Administration and Federal Railroad Administration, Department of Transportation, will publish on the Monday/Thursday schedule.

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.

List of Public Laws

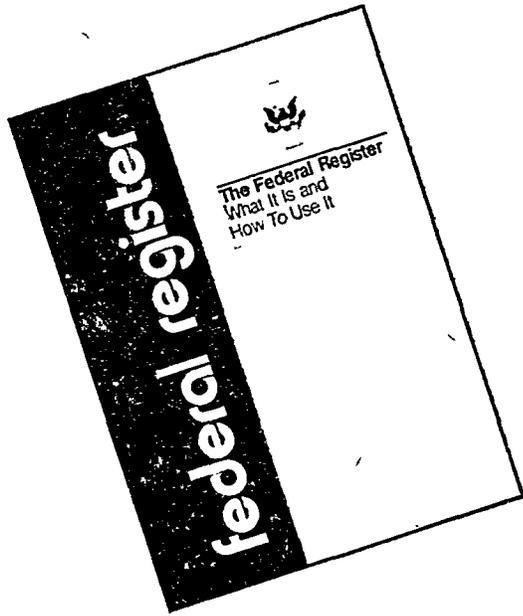
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing June 26, 1979

Rules Going Into Effect Today

- COMMUNITY SERVICES ADMINISTRATION**
- 31000 5-29-79 / Summer Youth Recreation Programs
- FEDERAL COMMUNICATIONS COMMISSION**
- 30096 5-24-79 / TV broadcast stations in Beattyville, Ky.; change in table of assignments
- 30097 5-24-79 / TV broadcast station Fort Walton Beach, Fla., change in table of assignments
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Office of Assistant Secretary for Community Planning and Development—
- 33372 6-8-79 / Community development block grants; urban development action grants
Office of the Secretary—
- 33064 6-8-79 / Transfer of Federal Insurance Administration regulations
- INTERSTATE COMMERCE COMMISSION**
- 30687 5-29-79 / Alaskan trade, for-hire motor common carriers of property in substituted water-for-motor service

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